



December 21, 2011

Monica Lindeen
State Auditor/Commissioner of Securities and Insurance
State of Montana
840 Helena Avenue
Helena, MT 59601

RE: Asset Purchase Agreement – New West Health Services/PacificSource

Dear Commissioner Lindeen:

New West Health Services is hereby submitting an executed Asset Purchase Agreement related to the divestiture of its Commercial business to PacificSource, an Oregon, not-for-profit health insurer. Exhibits and schedules are tabbed for your reference. Also included are "Related Documents" outlining our proposed working relationships going forward with an Asset Purchase Agreement approved by your office. You will note the "Related Documents" are not yet final or executed but submitted for informational purposes. Once executed, the final copies will also be submitted to you, so you have all information about this proposed transaction going forward.

We respectfully request the scheduling of a hearing to review this agreement consistent with Montana bulk reinsurance statute and regulations. We look forward to an expeditious review in your consideration of this agreement and related approval.

Please do not hesitate to contact me, Joe Aoun, counsel or Tanya Ask with questions. Thank you.

Sincerely,

I. David Kibbe
President and CEO

Attachment

cc: Jesse Laslovich, DOI
Tanya M. Ask, New West Health Services
Joseph T. Aoun, Counsel, Nuyen, Tomtischen and Aoun, P.C.

2011 DEC 21 P 3:16

STATE AUDITOR'S
OFFICE
HELENA, MONTANA

Table of Contents

1) Asset Purchase Agreement	(pages 1-25)
Appendix A – Definitions	(pages 19-20)
Schedule 6.6 - Gov't and Third Party Consents	(page 21)
Schedule 6.7 – Material/Non-cancelable Contracts	(page 22)
Schedule 6.9 – Material Changes since Current Financials	(page 23)
Schedule 6.10 – Pending Litigation/Administrative	(page 24)
Schedule 7.5 – Gov't and Third Party Consents Buyer	(page 25)
2) Related Documents	
Exhibit A – Transition Period Administrative Service Agreement	(pages 1-13)
Exhibit 1 HIPAA Business Associate Agreement	(pages 9-13)
Exhibit B – License Agreement	(pages 1-8)
Exhibit C – Non-Competition Agreement	(pages 1-4)
Exhibit D – First Right of Offer	(pages 1-5)

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (this "Agreement"), dated as of December 13, 2011, is between New West Health Services (the "Seller"), a Montana non-profit corporation, and PacificSource Health Plans (the "Buyer"), an Oregon non-profit corporation.

RECITALS

- A. The Seller operates a health services corporation (the "Business").
- B. The Buyer desires to acquire certain of the assets used or useful, or intended to be used, in the operation of the Seller's Commercial Business and the Seller desires to sell such assets to the Buyer.

AGREEMENT

The parties agree as follows:

1. **Definitions.** Unless defined elsewhere in this Agreement, capitalized terms used in this Agreement will have the meanings ascribed to them in the attached Appendix A.

2. **Assets Purchased; Liabilities Assumed.**

2.1 **Assets Purchased.** Subject to the terms and conditions set forth in this Agreement, the Seller agrees to sell to the Buyer and the Buyer agrees to purchase from the Seller the following assets (the "Purchased Assets"):

2.1.1 **Commercial Business Subscriber Contracts.** All of the Seller's business under the Seller's Premier West Plans, Valu-West Plans, Valcare Plans, Valcare Plus Plans, Westcare Plans, Westcare Plus Plans, Uniform Plans, Basic Plans, New West Select Plans, Guardian Plans, innovations Plans, Health Connections Plans, and any other health insurance plan offered by the Seller with respect to the Commercial Business, including Seller's Dental, Prescription Drug, and Vision Plans (collectively referred to as the "Commercial Subscriber Contracts"). The term "Commercial Subscriber Contracts" does not include (a) any contracts issued to Seller's Member Hospitals; (b) administrative services only contracts between Seller and employer groups which self-fund their employee benefits (hereinafter "ASO Contracts"); and (c) any Medicare Advantage contracts issued to Commercial Business subscribers. The transfer of the Commercial Subscriber Contracts shall be accomplished through a bulk reinsurance transaction, as described in Section 8.6. The estimated number of existing Plan Members is nine thousand (9,000). Without limiting the generality of the foregoing, included as part of the Purchased Assets shall be (a) all rights to the revenues of the Commercial Business Subscriber Contracts; and (b) all rights to service and renew the Commercial Business Subscriber Contracts.

2.1.1 **Commercial Business Intangible Assets.** All of Seller's (a) goodwill associated with the Commercial Business; (b) other intangible assets that are necessary for the Buyer to operate the Commercial Business as a part of the Buyer's Business, including without limitation the rights to use insurance plan designs, forms, and published rates (it being understood that intangible assets not encompassed in the foregoing description include without limitation: proprietary elements of the Seller's business model (e.g., organizational structure, marketing programs, etc.), trademarks and trade

names incorporating the name "New West" and/or the Seller's eagle logo, and all information technology and software).

2.1.3 Commercial Business Books and Records. All of Seller's paper and electronic files and records concerning the Commercial Business, including without limitation all of the Seller's information relating to the Plan Members and Plan Members' claims.

2.1.4 Commercial Business Provider Contracts. At the Buyer's sole discretion and subject to required consents and authorizations, Seller's rights in its provider contracts with providers that are not controlled by the Member Hospitals as respects the Commercial Business and ASO Contracts business only; it being expressly agreed that the Purchased Assets do not include Seller's rights in its provider contracts as respects its Medicare Advantage line of business.

2.2 Liabilities Excluded. Except for the Assumed Liabilities set forth in Section 2.3 below, Buyer does not and will not assume or become obligated to pay, perform or discharge, and will not be responsible for, any liabilities or obligations of Seller whatsoever, whether accrued, absolute, contingent or otherwise. The only obligations of Seller for which Buyer has financial responsibility are those Assumed Liabilities set forth in Section 2.3.

2.3 Liabilities Assumed. Buyer shall assume and after the Closing Date perform in connection with the transfer of the Purchased Assets all obligations under the Commercial Business Subscriber Contracts, including without limitation the obligation to pay claims for services rendered to Plan Members after the Closing Date. To the extent any ASO Contracts or provider contracts are assigned and/or transferred to Buyer, Buyer shall assume and after the Closing Date (or the date of assignment/transfer if earlier) perform all obligations under such contracts. The obligations of Buyer under the Commercial Business Subscriber Contracts and any assigned and/or transferred ASO contracts or provider contracts are referred to collectively as "Assumed Liabilities." Seller shall process and pay all valid claims under the Commercial Business Subscriber Contracts incurred on or before the Closing Date. Seller shall perform all obligations arising under the ASO Contracts and provider contracts that arise on or before the Closing Date (or the date of assignment/transfer if earlier).

2.3.1 Confinement; Authorizations. Seller shall be responsible for all claims for payment for any pre-authorized services or services rendered to Members whose inpatient hospital admission or other confinement occurred on or prior to the Closing Date, regardless of date of discharge. Buyer shall be responsible for the payment for services rendered to Members for admissions or services authorized by Seller prior to Closing Date in the ordinary course of business that occur after the Closing Date.

2.3.2 Taxes; Assessments. Assumed Liabilities shall include any state premium taxes or assessments (including the state high risk pool assessment) in connection with the Commercial Business Subscriber Contracts. In the event Seller pays any taxes or assessments with respect to periods after the Closing Date, Buyer shall promptly reimburse Seller for such payments upon Seller providing reasonable documentation to Buyer that such obligations relate to the period after the Closing Date. In the event Buyer pays any obligations with respect to periods prior to the Closing Date, Seller shall promptly reimburse Buyer for such payments upon Buyer providing reasonable documentation to Seller that such obligations relate to the period prior to the Closing Date.

2.3.3 Medical Loss Ratio Rebates. The parties recognize that, under certain circumstances, medical loss ratio rebates are required to be paid to individual and group subscribers pursuant to the Patient Protection and Affordable Care Act, as amended (hereinafter "MLR Rebates"). If the period during which the rebate calculation determination is made is one in which both Buyer and

Seiler had financial responsibility under the Commercial Business Subscriber Contracts, the parties will (a) pro rate responsibility for any MLR Rebates with respect to such period; and (b) agree on the appropriate identification and allocation of costs associated with activities that improve health care quality and other non-claim costs. If the period during which the MLR Rebate calculation is made is one in which the Seiler solely had financial responsibility under the Commercial Business Subscriber Contracts, Seiler shall have sole financial responsibility for MLR Rebates. If the period during which the MLR Rebate calculation is made is one in which the Buyer solely had financial responsibility under the Commercial Business Subscriber Contracts, Buyer shall have sole financial responsibility for MLR Rebates.

3. **Excluded Assets.** Buyer shall not acquire any assets or property owned by Seller or used by Seller in connection with the Commercial Business other than the Purchased Assets described in Section 2.1. In furtherance of the foregoing and not by limitation, the parties agree that the Excluded Member Assets do not comprise any part of the Purchased Assets.

4. **Purchase Price.** The purchase price for the Purchased Assets and transfer of ASO Plan Members (the "Purchase Price") shall be no more than One Million Five Hundred Thousand Dollars (\$1,500,000) and shall be comprised of the initial Payment, Secondary Payment and ASO Payment as described further below. The Purchase Price shall be allocated for tax purposes based on the amount and classification of the membership that transfers to the Buyer, as reasonably determined by the parties. The Purchase Price shall be due and owing, and paid (by wire transfer of immediately available funds), as follows:

4.1 **Initial Payment.** The Buyer will pay to the Seller Seven Hundred Fifty Thousand Dollars (\$750,000) of the Purchase Price, provided that at least seven thousand (7,000) Target Members (defined below) transfer to the Buyer as of the Transfer Date (defined below). As used herein, the term "Target Members" refers to Plan Members enrolled in Commercial Business Subscriber Contracts issued to Individuals, small employer groups and associations. As used herein, the term "Transfer Date" refers to the Closing Date if the Closing Date is the first day of the month and if the Closing Date is not the first day of the month, Transfer Date refers to the first day of the month next following the Closing Date. Buyer shall make the initial Payment no later than thirty (30) days following the Transfer Date. If fewer than 7,000 Target Members transfer, this initial Payment shall be reduced as follows:

4.1.1 If more than five thousand (5,000) but fewer than seven thousand (7,000) Target Members transfer to the Buyer as of the Transfer Date, then the initial Payment will be decreased proportionately between Seven Hundred Fifty Thousand Dollars (\$750,000) and Two Hundred Thousand Dollars (\$200,000) (e.g., if 6,000 such Target Members are transferred, then \$475,000 will be paid).

4.1.2 If between three thousand (3,000) and four thousand nine hundred ninety-nine (4,999) Target Members transfer to the Buyer as of the Transfer Date, then the Buyer shall pay Two Hundred Thousand Dollars (\$200,000).

4.1.3 If fewer than three thousand (3,000) Target Members transfer to the Buyer as of the Transfer Date, then the Buyer shall pay Fifty Thousand Dollars (\$50,000).

4.2 **Secondary Payment.** The Buyer will pay to the Seller Five Hundred Thousand Dollars (\$500,000) if nine thousand (9,000) Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract Period. If fewer than nine thousand five hundred (9,000) Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract

Period, then the Secondary Payment shall be reduced proportionately between Five Hundred Thousand Dollars (\$500,000) and Zero Dollars (\$0). For illustrative purposes only, if 4,500 Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract Period, then \$250,000 will be paid. Buyer shall make the Secondary Payment within thirty (30) days following the one year anniversary of the Transfer Date by wire transfer of immediately available funds.

4.3 ASO Payment. The Buyer will pay to the Seller Two Hundred Fifty Thousand Dollars (\$250,000) if eight thousand five hundred (8,500) ASO Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract Period. If fewer than eight thousand five hundred (8,500) ASO Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract Period, then the ASO Payment shall be reduced as follows:

4.3.1 If more than four thousand (4,000) but fewer than eight thousand five hundred (8,500) ASO Plan Members transfer to the Buyer as of the Transfer Date, then the ASO Payment will be decreased proportionately between Two Hundred Fifty Thousand Dollars (\$250,000) and Zero Dollars (\$0). For illustrative purposes only, if 6,250 such ASO Plan Members are transferred, then \$125,000 will be paid.

4.3.2 If fewer than four thousand (4,000) ASO Plan Members transfer to the Buyer as of the Transfer Date and contract with the Buyer for the Contract Period, then no ASO Payment shall be made.

If an ASO Payment is owed, Buyer shall make such ASO Payment within thirty (30) days following the one year anniversary of the Transfer Date by wire transfer of immediately available funds.

5. Other Agreements. At the Closing (as defined below), the parties shall execute the Related Agreements, the execution of which shall be a condition precedent to the Buyer's obligation to purchase the Assets:

5.1 Transition Period Administrative Services Agreement. An agreement (the "Transition Period Administrative Services Agreement"), in substantially the form attached hereto as Exhibit A, under which the Seller will provide claims administration, customer service, and other services to the Buyer after the Closing Date with respect to that portion of the Commercial Business defined in the Transition Period Administrative Services Agreement. The Transition Period Administrative Services Agreement will have a term of twelve (12) months and be renewable thereafter for three (3) month terms.

5.2 License Agreement. An agreement (the "License Agreement"), in substantially the form attached hereto as Exhibit B, under which the Seller will, at the Buyer's request, provide the Buyer (i) a license to access all of the Seller's electronic databases and systems containing information about the Commercial Business and the Seller's provider network, both current and historical, (ii) a license to use all computer software required to access the foregoing information, and (iii) the right, from time to time, to require the Seller to create extracts of data from its electronic databases and systems and transmit such extracts to the Buyer, the License Agreement to continue in effect until the Buyer can incorporate such information into the Buyer's own databases, but in no event for longer than the later of twenty-four (24) months after the Closing Date or twelve (12) months after expiration of the Transition Period Administrative Services Agreement.

5.3 *Non-Competition Agreement.* An agreement (the "Non-Competition Agreement"), in substantially the form attached hereto as Exhibit C, under which the Seller agrees that it will not, directly or indirectly, through a subsidiary or otherwise, compete with the Buyer within the scope of the Commercial Business within the State of Montana for a period of five (5) years after the Closing Date, or such maximum time allowed under Montana law.

5.4 *First Right of Offer.* An agreement (the "First Right of Offer"), in substantially the form attached hereto as Exhibit D, under which the Buyer is provided a right of first offer to purchase the Seller's Medicare Advantage and Medicare Part D lines of business, or the balance of the Seller's assets.

6. **The Seller's Representations and Warranties.** The Seller represents and warrants to the Buyer as follows:

6.1 *Corporate Existence.* The Seller is a corporation duly incorporated and legally existing under the laws of the state of Montana and is qualified to do business in every jurisdiction in which its ownership of property or conduct of business requires it to qualify. The Seller has all requisite corporate power and authority and all material licenses, permits, and authorizations necessary to own and operate the Assets and to carry on the Business as now conducted.

6.2 *Authorization; Binding Agreement.* The execution, delivery, and performance of this Agreement and all other agreements contemplated by this Agreement to which the Seller is a party have been duly authorized by the Seller. This Agreement and the Related Agreements, when executed and delivered by the parties thereto, will constitute the legal, valid, and binding obligation of the Seller, enforceable against the Seller in accordance with their respective terms.

6.3 *Financial Statements.* The Seller has delivered to the Buyer year-end NAIC financial statements and detailed information by line of business, and will deliver to the Buyer financial statements for all additional interim periods ending prior to the Closing Date (the most recent of such statements to be referred to herein as the "Current Financial Statements"). The financial statements which have been or will be delivered are in accordance with the books and records of the Seller; are true, correct, and complete; fairly present in all material respects the financial condition of the Seller as of the dates of such financial statements and the results of the Seller's operations for the period then ended; and were prepared in accordance with the same generally accepted method of accounting applied on a basis consistent with its application in prior accounting periods. Except as expressly described in this Agreement, between the close of the Seller's last fiscal year and the date hereof, there has been no Material Adverse Change in the financial condition of the Seller.

6.4 *Title to the Assets.* Except as expressly described in this Agreement, the Seller holds good and marketable title to the Purchased Assets, free and clear of restrictions on or conditions to transfer or assignment and free and clear of liens, pledges, leases, charges, or encumbrances.

6.5 *Brokers.* The Seller has not employed any broker or finder in connection with the transactions contemplated by this Agreement, or taken action that would give rise to a valid claim against any party for a brokerage commission, finder's fee, or other like payment.

6.6 *Transfer Not Subject to Encumbrances or Third Party Approval.* The execution and delivery of this Agreement and the Related Agreements by the Seller, and the consummation of the contemplated transactions, will not result in the creation or imposition of any valid lien, charge, or

encumbrance on any of the Purchased Assets; will not require the authorization, consent, or approval of any third party, other than applicable governmental authorities and any other third party listed on Schedule 6.6, which the Seller represents is a complete and accurate list; and will not violate in any material respect any agreement or covenant by which the Seller is bound.

6.7 Noncancelable Contracts. As respects the operation of the Commercial Business exclusively, there are not any material leases, employment contracts, contracts for services or maintenance or other similar contracts that are not cancelable within one hundred and twenty (120) days, except those agreements listed on Schedule 6.7. Notwithstanding the foregoing, the Buyer assumes no such liabilities or obligations under such contracts.

6.8 Absence of Undisclosed Liabilities. As respects the Commercial Business and Purchased Assets, the Seller has no liability or obligation (whether absolute, accrued, contingent, or other, and whether due or to become due) that is not accrued, reserved against, or disclosed in the Current Financial Statements, other than liabilities incurred in the ordinary course of business consistent with past practice since the date of such financial statements or that individually or in the aggregate will not have a Material Adverse Effect on the Business or the financial condition of the Seller. Notwithstanding the foregoing, the Buyer assumes no such liabilities or obligations.

6.9 Absence of Certain Changes or Events. Except as set forth in Schedule 6.9, since the date of the Current Financial Statements, there has not been:

6.9.1 Any Material Adverse Effect on the Commercial Business or the financial condition of the Seller or any event, occurrence, development, or state of circumstances or facts that could reasonably be expected to result in a Material Adverse Effect on the Commercial Business or the financial condition of the Seller;

6.9.2 Any entry into any agreement, commitment, or transaction (including, without limitation, any borrowing, capital expenditure, or capital financing or any amendment, modification, or termination of any existing agreement, commitment, or transaction) by the Seller, except agreements, commitments, or transactions in the ordinary course of business and consistent with past practices;

6.9.3 Any conduct of business that is outside the ordinary course of business or not substantially in the manner that the Seller previously conducted its business;

6.9.4 Any purchase or other acquisition of property or any sale, lease, or other disposition of property, or any expenditure, except in the ordinary course of business and consistent with past practices;

6.9.5 Any incurrence of any noncontract liability known to the Seller that, either singly or in the aggregate, is material to the Commercial Business, results of operations, financial condition, or prospects of the Seller;

6.9.6 Any encumbrance or consent to encumbrance of any property or assets except in the ordinary course of business and consistent with past practices; or

6.9.7 Any change in the assets, liabilities, licenses, permits, or franchises of the Seller, or in any agreement to which the Seller is a party or is bound, that has had or reasonably could be expected to have a Material Adverse Effect on the Business or the financial condition of the Seller.

6.10 Litigation. Except for the Blue Cross Litigation and any judgment entered therein, and except for any pending litigation scheduled on Schedule 6.10, there are no actions, suits, proceedings,

orders, investigations, or claims pending or, to the best of the Seller's knowledge, threatened against the Seller or its property, at law or in equity, or before or by any governmental department, commission, board, bureau, agency, or instrumentality; the Seller is not subject to any arbitration proceedings under collective bargaining agreements or otherwise or, to the best of the Seller's knowledge, any governmental investigations or inquiries; and, to the best knowledge of the Seller, no basis exists for any of the foregoing. Buyer is not assuming any responsibility with respect to pending litigation or proceedings. As provided in Section 13.2, the Seller shall indemnify the Buyer from all such actions, suits, proceedings, orders, investigations, or claims pending that arise from the operation of the Commercial Business prior to the Closing Date.

6.11 Compliance with Laws. The Seller has at all relevant times conducted the Commercial Business in compliance with its governing documents, and is in material compliance with all applicable laws and regulations; and, to the best of Seller's knowledge, the Seller is not in violation of any applicable laws or regulations, other than violations that singly or in the aggregate do not and, with the passage of time, will not have a Material Adverse Effect on the Commercial Business or the financial condition of the Seller. The Seller is not subject to any outstanding order, writ, injunction, decree, or judgment that has been validly served upon Seller, and Seller has not received notice of any charge or threatened charge of a violation of any provision of federal, state, or local law or regulation that affects the Commercial Business.

6.12 Accuracy of Representations and Warranties. None of the representations or warranties of the Seller contain or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make statements in this Agreement not misleading. The Seller does not know of any fact which has resulted, or which, in the Seller's judgment, will result in a material change in the Business, operations or assets of the Seller which has not been set forth in this Agreement or otherwise disclosed to the Buyer.

7. Representations and Warranties of the Buyer. The Buyer represents and warrants as follows:

7.1 Corporate Existence. The Buyer is a corporation duly organized and legally existing under the laws of the state of Oregon. The Buyer has all requisite corporate or individual power and authority to enter into this Agreement and the Related Agreements and to perform its obligations under them.

7.2 Authorization; Binding Agreement. The execution, delivery, and performance of this Agreement have been duly authorized and approved by the board of directors of the Buyer. This Agreement and the Related Agreements constitute valid and binding agreements of the Buyer, enforceable against the Buyer in accordance with their terms.

7.3 Brokers and Finders. The Buyer has not employed any broker or finder in connection with the transactions contemplated by this Agreement and has taken no action that would give rise to a valid claim against any party for a brokerage commission, finder's fee, or other like payment.

7.4 Accuracy of Representations and Warranties. None of the representations or warranties of the Buyer contain or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make the statements contained herein not misleading.

7.5 *Required Consents.* Except as set forth in Schedule 7.5, no consent, approval or authorization of, or designation, declaration or filing with, any person, or governmental entity is required in connection with the execution, delivery and performance of this Agreement and the Related Agreements and the consummation of the transactions contemplated hereby and thereby.

7.6 *Financial Resources.* Buyer will have immediately available funds in cash which are sufficient to pay the Purchase Price and to pay any other amounts payable at or after the Closing pursuant to this Agreement and to consummate the transactions contemplated by this Agreement to be consummated at the Closing.

8. Covenants of the Seller.

8.1 *The Seller's Operation of Commercial Business Before Closing.* The Seller agrees that between the date of this Agreement and the Closing, the Seller will:

8.1.1 Continue to operate the Commercial Business in the usual and ordinary course and in substantial conformity with all applicable laws, ordinances, regulations, rules, or orders (including without limitation the Asset Preservation Order entered in connection with the Blue Cross Litigation), and will use its best efforts to preserve its business organization and to preserve the continued operation of its business with its customers, suppliers, and others having business relations with the Seller;

8.1.2 Not assign, sell, lease, or otherwise transfer or dispose of any of the assets used in the performance of the Commercial Business, whether now owned or hereafter acquired, except in the normal and ordinary course of business and consistent with past practices; and

8.1.3 Not provide any quotation for new health insurance in the Commercial Business without the prior written consent of the Buyer unless such rate has been developed pursuant to rating plans that have been reviewed and approved by Buyer.

8.2 *Access to Premises and Information.* At reasonable times before the Closing, the Seller will provide the Buyer and its representatives with reasonable access during business hours to the Assets and the Seller's management employees, and furnish such additional information concerning the Commercial Business as the Buyer from time to time may reasonably request. In addition, the Seller shall permit the Buyer to begin the accessing of the Seller's electronic databases containing information about the Commercial Business, including without limitation the Seller's provider network, both current and historical, in order to permit the Buyer to have such information ready for use on the Buyer's computer network immediately after the Closing Date, it being understood that if the transactions contemplated by this Agreement do not close, the Buyer shall forthwith return or destroy, as the case may be, all Information transferred to the Buyer from the Seller's electronic databases.

8.3 *Conditions and Best Efforts.* The Seller will use its best efforts to effectuate the transactions contemplated by this Agreement and the Related Agreements and to fulfill all the conditions of its obligations under this Agreement and the Related Agreements, and will do all acts and things as may be required to carry out its obligations under this Agreement and the Related Agreements, including without limitation cooperating fully with the Buyer's efforts to obtain all approvals of state regulators required by applicable law.

8.4 *No Negotiations with Others.* Except as otherwise permitted by this Agreement, or with the Buyer's prior written consent, the Seller will refrain, and will cause the Seller's officers, directors,

and employees and any investment banker, lawyer, accountant, or other agent retained by the Seller to refrain, from initiating or soliciting any inquiries or making any proposals with respect to, or engaging in negotiations concerning, or providing any confidential information or data to, or having any discussions with any person relating to, any acquisition, business combination or purchase of all or any significant portion of the Purchased Assets. The Seller will pay to the Buyer a break-up fee in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) if the Seller breaches this Section 8.4 or the Seller enters into a letter of intent or an agreement concerning an acquisition of substantially all the Purchased Assets within six (6) months after the date of the breach; such break-up fee will be in addition to any remedy otherwise provided under this Agreement.

8.5 Press Releases. No notice to customers, press release, or other public announcement, other than in the normal course of business, concerning the transactions contemplated by this Agreement will be made by the Seller without the Buyer's prior written consent, which consent will not be unreasonably withheld; provided, however, nothing in this section will prevent a party from supplying such information or making statements as required by governmental authority or as necessary for a party to satisfy its legal obligations (prompt notice of which must in any such case be given to the other party).

8.6 Assumption Reinsurance Agreement; Pre-Closing and Post-Closing Obligations.

8.6.1 The parties acknowledge that this Agreement is a bulk reinsurance transfer agreement and that the transactions contemplated by this Agreement, to the extent they involve insurance business subject to regulation by the CSI, are governed by the Bulk Reinsurance Statutes. Both parties agree to perform fully all of their obligations under the Bulk Reinsurance Statutes and any CSI orders, both before and after the Closing, including without limitation the required notices of transfer to be provided to policyholders and certificate holders. The Seller shall agree with the Buyer prior to the Closing the manner in which a policyholder's or certificate holder's rejection of the transfer of insurance coverage to the Buyer will be handled, and obtain any required approval of the CSI to such agreement; it being agreed that, subject to applicable law and any CSI order, any such agreement shall include the requirement that any policy the transfer of which a policyholder rejects will be non-renewed by the Seller on or before the next anniversary of such policy. Rejection of a policy shall not affect the financial responsibility of the parties with respect to such policy where, pursuant to Section 2.3, the Seller shall have financial responsibility on or before the Closing Date and the Buyer shall have financial responsibility after the Closing Date. (The approvals of the CSI required by the Bulk Reinsurance Statutes shall constitute approvals required to satisfy the conditions set forth in Sections 10.2 and 11.1.)

8.6.2 The Seller hereby grants the Buyer a non-exclusive, non-transferable license to use its trademarks and trade name, including without limitation the name "New West" and the Seller's eagle logo, solely for purposes of communicating with Plan Members during the period that Plan Members and ASO Plan Members are being transferred to the Buyer; such use to be approved by the Seller prior to use, such approval shall not be unreasonably withheld. The Buyer hereby acknowledges that the Seller is the owner of such trademarks and trade name.

9. Covenants of the Buyer.

9.1 Conditions and Best Efforts. The Buyer will use its best efforts to effectuate the transactions contemplated by this Agreement and the Related Agreements and to fulfill all the conditions of the Buyer's obligations under this Agreement and the Related Agreements, and will do all acts and things as may be required to carry out the Buyer's obligations and to consummate this

Agreement and the Related Agreements. Buyer will use best efforts to obtain, as promptly as practicable, from all applicable governmental entities the approvals and authorizations it needs to consummate the transactions contemplated by this Agreement and the Related Agreements.

9.2 Press Releases. The Buyer will not make or provide any notice to customers, press release, or other public announcement, other than in the normal course of business, concerning the transactions contemplated by this Agreement without the prior written consent of the Seller, which consent will not be unreasonably withheld; provided, however, nothing in this section will prevent a party from supplying such information or making statements as required by governmental authority or as necessary for a party to satisfy its legal obligations (prompt notice of which must in any such case be given to the other party).

10. Conditions Precedent to the Buyer's Obligations. The obligation of the Buyer to consummate the transactions contemplated by this Agreement and the Related Agreements is subject to the fulfillment, before or at the Closing, of each of the following conditions, any one or portion of which may be waived in writing by the Buyer:

10.1 Consents. The government consents, authorizations, and approvals needed for closing the transactions contemplated by this Agreement must have been obtained (including without limitation all required consents, authorizations, and approvals of state regulators required by applicable law) and shall be final and non-appealable.

10.2 Notice of Transfer. Unless otherwise required by CSI, the Notice of Transfer required by applicable state law shall include the statement that if the recipient policyholder or certificate holder rejects the transfer of the policyholder's policy to the Buyer, the Seller will not renew such policy when it expires.

10.3 Representations, Warranties, and Covenants of the Seller. All representations and warranties made in this Agreement by the Seller will be true in all material respects through the Closing and the Seller will not have violated or have failed to perform in any material respect any covenant contained in this Agreement or the Related Agreements.

10.4 Officer's Certificate. The Buyer shall have received a certificate from the Seller dated as of the Closing Date, in a form satisfactory to the Buyer, certifying that the representations and warranties of the Seller contained in this Agreement are true, correct, and complete in all material respects and that the Seller has performed and complied with, in all material respects, all covenants required under this Agreement to be performed or complied with by the Seller prior to or at the Closing Date.

10.5 Execution and Delivery of Other Agreements. The Transition Period Administrative Services Agreement, License Agreement, Non-Competition Agreement and First Right of Offer shall each have been duly executed and delivered.

10.6 Provider Agreements. The Buyer shall have entered into agreements with the Member Hospitals; such agreements to be for a minimum duration of three years and provide discounts that are consistent with the Member Hospitals' obligations arising from the Blue Cross Litigation. In addition, the Buyer shall be reasonably satisfied that the Seller has used its best efforts to assign to the Buyer, or its provider network vendor, Seller's rights in its provider contracts with providers that are not controlled

by the Member Hospitals as respects the Commercial Business and ASO Contracts business only; it being expressly agreed that Seller will continue to have rights in its provider contracts as respects its Medicare Advantage line of business.

10.7 Access to Information Regarding the Commercial Business. All steps shall have been taken to the Buyer's satisfaction to permit the transfer from the Seller to the Buyer immediately after the Closing Date of all material information concerning the Commercial Business, in both paper and electronic form, not earlier transferred pursuant to Section 8.2.

10.8 No Suits or Actions. At the time of the Closing, no action, suit, or proceeding before any court or any governmental or regulatory authority will have been commenced and be continuing, and no investigation by any governmental or regulatory authority will have been commenced and be continuing, and no action, investigation, suit, or proceeding will be threatened, against the Seller or the Buyer or any of their affiliates, associates, officers, or directors, seeking to restrain or prevent or questioning the validity of the transactions contemplated by this Agreement or the Related Agreements.

10.9 Material Adverse Change. From the date of this Agreement to the Closing, the Seller will not have suffered any Material Adverse Change to the financial condition of the Seller or to the nature or manner of operation of the Commercial Business.

11. Conditions Precedent to Obligations of the Seller. The obligation of the Seller to consummate the transactions contemplated by this Agreement and the Related Agreements is subject to the fulfillment, before or at the Closing, of each of the following conditions, any one or portion of which may be waived in writing by the Seller:

11.1 Consents. The government consents, authorizations, and approvals needed for closing the transactions contemplated by this Agreement must have been obtained (including without limitation all required consents, authorizations, and approvals of state regulators required by applicable law) and shall be final and non-appealable.

11.2 Representations, Warranties, and Covenants of the Buyer. All representations and warranties made in this Agreement by the Buyer will be true in all material respects through the Closing and the Buyer will not have violated or have failed to perform in any material respect any covenant contained in this Agreement or the Related Agreements.

11.3 Officer's Certificate. The Seller shall have received a certificate from the Buyer dated as of the Closing Date, in a form satisfactory to the Seller, certifying that the representations and warranties of the Seller contained in this Agreement are true, correct, and complete in all material respects and that the Buyer has performed and complied with, in all material respects, all covenants required under this Agreement to be performed or complied with by the Buyer prior to or at the Closing Date.

12. Risk of Loss. The risk of loss, damage, or destruction to any tangible property to be conveyed to the Buyer under this Agreement shall be borne by the Seller to the time of the Closing. In the event of such loss, damage, or destruction, the Seller shall, to the extent reasonable, replace the lost property or repair or cause to repair the damaged property to its condition before the damage. If replacement, repairs, or restorations are not completed before the Closing, the Purchase Price shall be adjusted by an amount agreed upon by the Buyer and the Seller which will be required to complete the replacement,

repair, or restoration following the Closing. If the Buyer and the Seller are unable to agree, the Buyer, at its sole option, and notwithstanding any other provision of this Agreement, may, upon notice to the Seller, rescind this Agreement and declare it to be of no further force and effect, in which event there shall be no closing of this Agreement and all of the terms and provisions hereof shall be deemed null and void.

13. Indemnification and Survival.

13.1 Survival of Representations and Warranties. All representations and warranties made in this Agreement will survive the Closing of this Agreement for a period of three (3) years. Any party learning of a misrepresentation or breach of representation or warranty under this Agreement shall promptly give written notice thereof to the other party to this Agreement.

13.2 The Seller's Indemnification.

13.2.1 The Seller agrees to indemnify, defend, and hold the Buyer, its successors, and assigns harmless from and against any and all claims, liabilities, obligations, costs, expenses, and reasonable attorney fees (collectively, "Damages") arising out of or related to: (a) the operation of the Business prior to the Closing; and (b) any and all damage or deficiency resulting from any misrepresentation, breach of warranty or covenant, or non-fulfillment of any agreement on the part of the Seller under this Agreement or any Related Agreement.

13.2.2 If any claim is asserted against the Buyer that would give rise to a claim by the Buyer against the Seller for indemnification under this Section 13.2, then the Buyer will promptly give written notice to the Seller concerning such claim and the Seller will, at no expense to the Buyer, defend the claim.

13.3 The Buyer's Indemnification.

13.3.1 The Buyer agrees to defend, indemnify, and hold harmless the Seller from and against all Damages arising out of or related to: (a) the operation of the Commercial Business after the Closing; and (b) any and all damage or deficiency resulting from any misrepresentation, breach of warranty or covenant, or non-fulfillment of any agreement on the part of the Buyer under this Agreement or any Related Agreement.

13.3.2 If any claim is asserted against the Seller that would give rise to a claim by the Seller against the Buyer for indemnification under this Section 13.3, then the Seller will promptly give written notice to the Buyer concerning such claim and the Buyer will, at no expense to the Seller, defend the claim.

14. Closing.

14.1 Time and Place. This Agreement will be closed (the "Closing") at a location agreed upon by the parties as of the last day of the month after all necessary consents, authorizations, and approvals needed for closing the transaction have been obtained, but in no event later than March 31, 2012, unless the parties otherwise agree in writing (the "Closing Date").

14.2 Obligations of the Seller at Closing. At the Closing, the Seller will deliver to the Buyer the following:

14.2.1 Bills of sale, assignments, and other instruments of transfer, in form and substance reasonably satisfactory to counsel for the Buyer, necessary to transfer and convey all of the Assets to the Buyer.

14.2.2 The officer's certificate described in Section 10.6.

14.2.3 The Transition Period Administrative Services Agreement described in Section 5.1.

14.2.4 The License Agreement described in Section 5.2.

14.2.5 The Non-Competition Agreement described in 5 4.3.

14.2.6 The First Right of Offer described in Section 5.4.

14.2.7 Such other certificates and documents as may be called for by the provisions of this Agreement.

14.3. *Obligations of the Buyer at Closing.* At the Closing, the Buyer will deliver to the Seller the following:

14.3.1 The officer's certificate described in Section 11.4.

14.3.2 The Transition Period Administrative Services Agreement described in Section 5.1.

14.3.3 The License Agreement described in Section 5.2.

14.3.4 The Non-Competition Agreement described in Section 5.3.

14.3.5 The First Right of Offer described in Section 5.4.

14.3.6 Such other certificates and documents as may be called for by the provisions of this Agreement.

15. Termination of Agreement.

15.1 *By Mutual Consent.* This Agreement may be terminated by mutual written consent of the parties hereto.

15.2 *Breach of Representations and Warranties; Failure of Certain Conditions.* The Buyer may elect by notice to the Seller, and the Seller may elect by notice to the Buyer, to terminate this Agreement if:

15.2.1 The terminating party shall have discovered a material error, misstatement, or omission in the representations and warranties made in this Agreement by the other party which shall not have been cured by such other party within fifteen (15) days after written notice to such other party specifying in detail such asserted error, misstatement, or omission, or by the Closing Date, whichever occurs first.

15.2.2 The conditions precedent to the terminating party's obligation under this Agreement as set forth in Sections 10.1 or 10.3 (as respects Buyer) or Sections 11.1 or 11.2 (as respects Seller), shall not have occurred and have not been waived by the terminating party on or before the Closing Date.

15.3 Closing Notwithstanding the Right to Terminate. The party with a right to terminate this Agreement pursuant to Section 15.2 shall not be bound to exercise such right, and such party's failure to exercise such right shall not constitute a waiver of any other right such party may have under this Agreement, including but not limited to remedies for breach of a representation, warranty, or covenant.

16. Rights and Obligations Subsequent to Closing.

16.1 Transfer of Membership. After the execution of this Agreement and continuing after the Closing, the Seller will work cooperatively with the Buyer to expedite the transfer of the following policies, members and participants to the Buyer:

16.1.1 Plan Members, as those Plan Members' policies renew or sooner if the policyholder and the Buyer agree. If membership is transferred to Buyer prior to the Closing Date, the parties agree to take this into account for purposes of determining the Initial Payment, Secondary Payment or ASO Payment under Section 4.

16.1.2 ASO Plan Members covered under Seller's ASO Contracts.

16.2 Relationship Building. The Seller shall support the Buyer and its management team with any regulatory process involved in closing the transactions contemplated by this Agreement. The Seller shall also assist the Buyer in developing relationships with producers, providers, and other third parties that participate or are important to the operations and success of the Commercial Business.

17. Additional Agreements.

17.1 Further Assurances. If any further action is necessary or desirable to carry out the purposes of this Agreement, each of the parties will take such further action (including the execution and delivery of such further instruments and documents) as any other party reasonably may request.

17.2 Blue Cross Litigation. The parties acknowledge that a proposed judgment has been filed in the Blue Cross Litigation and that the Seller will have certain obligations under that judgment. The parties agree to cooperate to fulfill the obligations and rights contained in and required by that judgment.

17.3 Confidentiality. For the purposes of this Agreement, "Confidential Information" shall mean any and all confidential information disclosed during due diligence and otherwise in connection with this Agreement and the Related Agreements and the consummation of the transactions contemplated hereby and thereby, whether or not owned by the Disclosing Party (as defined below), including, without limitation, information relating to planned or existing businesses or business initiatives, organizational restructuring plans, actual and projected sales, profits and other financial information, information relating to technology, such as computer hardware, computer software, source code, object code, documentation, methods of processing and operational methods, information that describes insurance and financial services products and strategies, including, without limitation, actuarial calculations, product designs, product administration and management, tax interpretations, tax positions and treatment of any item for tax purposes, employee and personnel data and information, the terms of this Agreement and the Related Agreements, and information concerning each party's enrollees, providers and customers. Confidential Information shall exclude information that (i) is or becomes generally available to the public or is generally known by persons in the financial and/or insurance services industry other than as a result of disclosure by the Receiving Party (as defined

below) in violation of this Agreement, (ii) is known or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, provided that the Receiving Party is not aware that such source is under an obligation (whether contractual, legal or fiduciary) to the Receiving Party to keep such information confidential, or (iii) is independently developed by the Receiving Party. For the purposes of this Agreement, the party disclosing Confidential Information shall be referred to as the "Disclosing Party" and the party receiving such disclosure shall be known as the "Receiving Party."

17.3.1 Acknowledgment and Precautions. The Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information and agrees not to reveal or disclose it for any purpose to any other person (excluding counsel and other advisors, agents or contractors who have a duty of confidentiality, and other persons who are bound by valid and reasonably protective confidentiality agreements and have a need to receive such information for purposes of this Agreement or Related Agreements), or to use or permit use of any Confidential Information for any purpose other than as contemplated in this Agreement or Related Agreements, without the prior written consent of the Disclosing Party. The Receiving Party agrees to maintain adequate security procedures and take reasonable precautions (no less rigorous than the Receiving Party takes with respect to its own comparable confidential information) in an effort to prevent misuse, unauthorized or inadvertent disclosure or loss of the Confidential information.

17.3.2 Disclosure of Confidential Information. Confidential information may be disclosed by the Receiving Party pursuant to any statute, regulation, order, subpoena or document discovery request, or as otherwise required by law or requested by any governmental entities, provided that prior written notice of such disclosure is furnished to the Disclosing Party (if permissible by law) as soon as reasonably practicable in order to afford the Disclosing Party an opportunity to seek a protective order (it being agreed that if the Disclosing Party is unable to obtain or does not seek a protective order prior to the time the Receiving Party is legally compelled to disclose such information, disclosure of such information to the extent required by law or statute may be made without liability).

17.3.4 Notification Upon Discovery of Disclosure. The Receiving Party shall notify the Disclosing Party promptly upon the Receiving Party's discovery of any prohibited use or disclosure of the Confidential Information, or any breach of this Section 17 by the Receiving Party, and shall fully cooperate with the Disclosing Party as reasonably requested and at the Disclosing Party's expense to help the Disclosing Party regain possession of the Confidential information and prevent any further prohibited use or disclosure of the Confidential Information.

18. Miscellaneous Provisions.

18.1 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other party.

18.2 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or may be construed to confer on any person, other than the parties to this Agreement, any right or remedy of any nature whatsoever.

18.3 Notices. All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation),

mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Buyer:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: Kenneth P. Provencher, President/CEO
Facsimile No.: (541) 684-5575

With a copy to:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: General Counsel
Facsimile No.: (541) 684-5475

To the Seller:

New West Health Services
130 Neill Avenue
Helena, MT 59601
Attn: David Kibbe, President/CEO
Facsimile No.: (406) 457-2299

With a copy to:

Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
2001 Commonwealth Blvd., Suite 300
Ann Arbor, MI 48105
Facsimile No.: (734) 372-4101

All notices or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

18.4 Exhibits. The exhibits and schedules referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

18.5 Headings. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

18.6 Arbitration; Waiver of Jury Trial.

(a) The parties will work together in good faith to resolve any and all disputes between them (hereinafter referred to as "Disputes") including but not limited to all questions of arbitrability, the existence, validity, or scope of the Agreement. If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, the Dispute shall thereafter be submitted to binding arbitration before a panel of three arbitrators in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time; provided, however, the parties shall not submit to arbitration any Disputes where a party seeks specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief. Any arbitration proceeding under this Agreement shall be conducted in Lewis and Clark County, Montana. The arbitrator(s) may construe or interpret but shall not vary or ignore the terms of this Agreement and shall be bound by controlling law. The arbitrator(s) shall have no authority to award punitive, exemplary, indirect or special damages. The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof, consistent with Section 18.6(b) below. In the event that any portion of this Section 18.6 or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Section or Agreement. In the event any court determines that this arbitration procedure is

not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, such litigation. Such litigation would instead proceed with the judge as the finder of fact. This Section 18.6 governs any dispute between the parties arising after execution of this Agreement, and shall survive any termination of this Agreement.

(b) Any legal action or proceeding seeking specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief, and any legal action or proceeding seeking enforcement of any arbitration award in respect to this Agreement, may be brought in the courts of the State of Montana or of the United States of America for the District of Montana, and, by execution and delivery of this Agreement, the parties hereby accept for themselves and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts and appellate courts. The parties waive the right to trial by jury with respect to any claims hereby. The parties further irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the parties at its addresses referred to in Section 18.3. The parties hereby irrevocably waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to and hereby further irrevocably waive and agree, to the extent permitted by applicable law, not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed in any other jurisdiction.

18.7 Entire Agreement; Modification. This Agreement (including the documents, instruments, and agreements referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter (including the Letter of intent dated November 3, 2011). No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties.

18.8 Severability. If any provision of this Agreement is deemed to be invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be impaired in any way.

18.9 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

18.10 Time of Essence. Time is of the essence for each and every provision of this Agreement.

18.11 Expenses. Each party shall pay its own professional fees incurred in connection with the negotiation and preparation of this Agreement and the Related Agreements, and in connection with the Closing of the transactions contemplated by this Agreement.

18.12 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Montana, without regard to conflict-of-laws principles that would require the application of any other law.

18.13 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

18.14 Facsimile Signatures. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmitted signatures by signing an original document.

18.15 Authority to Execute. Each person executing this Agreement on behalf of a party warrants his or her authority to do so.

18.16 Representation. The parties acknowledge that this Agreement was initially drafted by the Buyer's in-house legal counsel on behalf of the Buyer, but that this final form of the Agreement reflects the negotiations of the Buyer and its counsel on the one hand and the Seller and its counsel on the other. Therefore, the parties agree that this Agreement shall not be construed against any party as drafter.

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: Nicholas Wolter, M.D.
Nicholas Wolter, M.D.
Chairman of the Board

PacificSource Health Plans

By: Kenneth P. Provencher
Kenneth P. Provencher
President and Chief Executive Officer

Appendix A DEFINITIONS

1. **"ASO Plan Members"** means the subscribers and dependents covered under the Seller's ASO Contracts.
2. **"BCBSMT Transaction"** means the transaction between Blue Cross Blue Shield of Montana and certain member hospitals of Seller pursuant to which the member hospitals have committed to purchase coverage from BCBSMT for a period of six (6) years commencing January 1, 2012. The BCBSMT Transaction includes the Blue Cross Litigation.
3. **"Blue Cross Litigation"** means that certain action in the United States District Court for the District of Montana, Billings Division, entitled *United States of America et al v. Blue Cross and Blue Shield of Montana, Inc. et al*, Case No. 1:11-cv-00123-RFC.
4. **"Bulk Reinsurance Statutes"** means the Montana Bulk Reinsurance statute, MCA 33-2-1211, and regulations issued by CSI with respect to assumption of small employer business MAR 6.6.5086 et seq.
5. **"Commercial Business"** means the Seller's small group, large group, association, and individual lines of business and related members, contracts and intangible assets. The term "Commercial Business" does not include the Member Hospital policies and the members covered thereunder.
6. **"Contract Period"** means the one year period beginning with the Transfer Date. In determining whether Plan Members or ASO Members contract with the Buyer during the Contract Period, all contracts will be considered, including without limitation contracts issued by Seller and assumed by Buyer and contracts issued by Buyer in replacement of Seller's contracts. A Plan Member or ASO Member will be considered to have contracted with the Buyer during the Contract Period even if the nature of the contract should change, e.g., an employer under an ASO Contract moves to a Commercial Business Subscriber Contract.
7. **"CSI"** means the Montana Commissioner of Securities and Insurance.
8. **"Excluded Member Assets"** means the Seller's Medicare Advantage, Medicare Part D, Administrative Services Only, and Member Hospital Groups lines of business and related members.
9. **"Material Adverse Effect" or "Material Adverse Change"** as used in this Agreement means any change or effect affecting the business of Seller, which individually or in the aggregate has had or may reasonably be expected to have a material adverse effect on, or a material adverse change in, as the case may be, the assets, liabilities, financial position, results of operations, pricing or operating margins, business condition or prospects of Seller, taken as a whole, other than any change, effect, fact, event or circumstance resulting from any Excluded Matter (defined below). The parties agree that changes in enrollment and the changes in the revenue or net income associated with the Commercial Business will not be viewed as a Material Adverse Change as long as Seller exercised best efforts to continue to operate the Commercial Business as an economically viable, competitive, and ongoing line of business and Seller used best efforts to maintain all operational, promotional, advertising, sales, technical, customer-service, and marketing support for the Commercial Business. As used herein, Excluded Matter means any one or more of the following: (A) the effect of any adverse change, effect, event, occurrence,

state of facts or development attributable to conditions affecting the U.S. health care industry as a whole or the U.S. or state of Montana economy as a whole; (B) the effect of any change in federal or state legislation or regulation applicable to Seiler; (C) the effect of the BCBSMT Transaction; and (D) the effect of the possible restructuring of the Seller by its Member Hospitals which may result in changes to in the number of Member Hospitals, as well as changes in Seller's governance, control and level of contributed capital and surplus notes.

10. **"Member Hospitals"** means the Billings Clinic, Bozeman Deaconess Health Services, Inc., Community Medical Center, Inc., Northern Montana Health Care, Inc., St. Peter's Hospital, and Benefis Health System.

11. **"Plan Members"** means the subscribers and dependents covered under Commercial Business Subscriber Contracts.

12. **"Related Agreement"** means the Transition Period Administrative Services Agreement, License Agreement, Non-Competition Agreement, and First Right of Offer.

Schedule 6.6
Governmental and Third Party Consents

- Approval by CSI
- Approval by Department of Justice pursuant to Blue Cross Litigation
- Assignment and/or transfer of Commercial Business Subscriber Contracts requires subscriber consent
- Assignment and/or transfer of ASO Contracts and provider contracts requires consent of the employer and provider, respectively

Schedule 6.7
Material Non-cancelable Contracts

- Medicare Secondary Payer Reporting – CSC (vendor). \$80K termination fee.

Schedule 6.9
Material Changes since Current Financial Statements

- None

Schedule 6.10
Pending Litigation and Administrative Proceedings

1. Subrogation Class Action Issues: Two lawsuits filed to get a class action certified on the issue of subrogation of third party liability claims. Attorneys for defendant on both issues are Leo Ward and Daniel Auerbach at Browning, Kaleczyc, Berry and Hoven, P.C.

Jeanette Diaz, Leah Hoffmann-Bernhardt and Rachel Laudon, Individually and on behalf of others similarly situated, plaintiffs vs. BCBS of Montana, NWHS, Montana Comprehensive Health Association, State of Montana and John Does 1-100. This case is currently before the Montana Supreme Court with respect to whether Third Party Administrators are subject to made whole doctrine.

Dana Rolan, Plaintiff v. NWHS Defendant, Montana District Court, Fourth Discovery Requests provided in November 2011.

2. Surrogacy Issue. Yearick plaintiff vs. NWHS defendant. First Discovery Requests currently being drafted. Settlement mediation scheduled for January 11, 2012. Attorneys are the same on this case as noted in #1 above.

3. Montana Department of Insurance issue with respect to Montana Farm Bureau Association. NWHS is currently working through a consent agreement to settle the issue. Attorney is Greg Gould at Luxan and Murfitt.

4. An Employee has hired an attorney and prepared a complaint. NWHS' response is due the week of December 12, 2011. Attorney for New West is Kim Beatty at Browning, Kaleczyc, Berry and Hoven, P.C.

5. An employee has filed a wage claim with Montana Department of Labor and Industry. Employee is self-representing. Attorney for New West is Kim Beatty at Browning, Kaleczyc, Berry and Hoven, P.C.

Schedule 7.5
Governmental and Third Party Consents Required of Buyer

- Approval by Oregon Department of Insurance (received)
- Approval by CSI

TRANSITION PERIOD ADMINISTRATIVE SERVICES AGREEMENT

This Transition Period Administrative Services Agreement (this "Agreement"), dated as of _____, 201____, is between New West Health Services ("New West"), a Montana non-profit corporation, and PacificSource Health Plans ("PacificSource"), an Oregon non-profit corporation.

RECITALS

- A. New West operates as a health services corporation and health maintenance organization.
- B. PacificSource operates as a health care services contractor.
- C. PacificSource has acquired (the "Acquisition") the Commercial Business and ASO Contracts from New West, pursuant to that certain Asset Purchase Agreement between PacificSource and New West dated December __, 2011 (the "Asset Purchase Agreement"), and wishes to have New West provide certain administrative services with respect to the acquired business for a period of time to facilitate the integration of the acquired business into PacificSource's other health insurance business.
- D. Initially capitalized terms used in this Agreement that are not otherwise defined in this Agreement shall have the meaning assigned to such terms under the Asset Purchase Agreement.

AGREEMENT

NOW, THEREFORE, New West and PacificSource agree as follows:

1. Services Provided.

1.1 New West agrees to provide PacificSource the following services (the "Standard Services") during the term of this Agreement with respect to those Plan Members under the Commercial Business and ASO Members under the ASO Contracts whose policies or contracts have not yet renewed and/or transferred to the PacificSource administrative system (individually, a "Non-Integrated Member" and collectively, the "Non-integrated Members"):

1.1.1 Billing and collections for insured group plans, ASO Contracts, and individual insurance. All collections will be deposited in accounts designated by PacificSource.

1.1.2 Member enrollment, including but not limited to internet-based electronic enrollment.

1.1.3 Member identification cards.

1.1.4 Distribution of benefit books and contracts.

1.1.5 Distribution of explanation of benefits statements.

1.1.6 Distribution of explanation of payments statements.

1.1.7 Processing of commission payments and preparing statements to producers selling the health insurance coverage for Non-integrated Members. All commission payments will be

from accounts designated by PacificSource, and PacificSource shall have financial responsibility to make such commission payments and fund such accounts.

1.1.8 Provider support.

1.1.9 Authorization and review of health services and procedures.

1.1.10 Processing claims. All claims payments will be from accounts designated by PacificSource, and PacificSource shall have financial responsibility to make such claims payments and fund such accounts.

1.1.11 Customer service for Plan Members, ASO Members and providers.

1.1.12 Preparation of standard client reports for large and ASO groups.

1.1.13 Grievance and appeals for Plan Members, ASO Members and providers.

1.1.14 Access to MyNewWest member portal.

1.2 In addition to the Standard Services, New West shall arrange "Pass-Through Services" (defined below) and such other services as may be agreed upon by the parties ("Other Services"). Standard Services, Pass-Through Services and Other Services are collectively referred to herein as "Services." Pass-Through Services refers to the following services provided by New West vendors: (a) Health Equity (high deductible health plan administration; on-line claim status; medical encyclopedia); and (b) Optum (disease management, wellness and 24-hour nurse hotline).

1.3 All of the Services shall be provided within the framework of policies, interpretations, rules, practices, procedures, and decisions made or established by New West prior to the Acquisition, consistent with how New West administered the Commercial Business and ASO Contracts prior to the Acquisition. Except as otherwise required by law or CSI order, New West shall not deviate from such standard policies, interpretations, rules, practices, procedures, and decisions for any Non-integrated Member without receiving the prior written approval of PacificSource.

1.4 All of the Standard Services shall at a minimum be provided at the level of performance (response time, processing time from receipt of claims, accuracy, etc.) provided by New West to its Plan Members and ASO Members prior to the Acquisition, as measured against New West's performance statistics averaged over the twelve (12) months before the Effective Date (defined in Section 6 below). All of the Pass-Through Services shall be provided at the customary level of performance of the applicable vendor during the twelve (12) months before the Effective Date.

1.5 At the time a Non-integrated Member's policy or ASO Contract renews and/or transfers onto PacificSource's administrative system, PacificSource will become responsible for servicing such member's policy or contract and New West shall not have any further responsibility to provide Services as respects such members; provided, however, that New West will continue to provide the Services for dates of services incurred prior to the date of the renewal and/or transfer (i.e.: the run-out).

2. **Post-Acquisition Crediting.** In addition to providing the Services, the parties agree that New West will, using a procedure to be agreed upon by the parties as soon as practicable after the Effective Date, account for and credit to PacificSource those portions of all collected premiums and fees that were billed by New West in connection with the Commercial Business and ASO Contracts prior to the Acquisition and are determined to apply to periods subsequent to the date of closing of the Acquisition

(the "Prepaid Amounts"). The parties acknowledge that the Prepaid Amounts can be determined over a period of time sufficient to as fully as practicable reflect relevant changes in insurance/ASO group plan membership. PacificSource agrees that, in the event it collects premiums or fees subsequent to the date of closing of the Acquisition and any portion of such premiums or fees relate to periods prior to the date of closing, PacificSource shall account for and pay to New West that portion of the collected premiums and fees that relate to periods prior to the date of closing.

3. **Reporting.** New West shall provide PacificSource such reports regarding the Services as PacificSource shall request, such requests to be consistent with customary reporting for a health insurance business.

4. **Compensation for Services.** In consideration of the Standard Services, PacificSource shall pay New West (a) \$22.50 per member per month as respects those Non-Integrated Members who are covered under Commercial Business Subscriber Contracts; and (b) the amount payable by the employers pursuant to the ASO Contracts as respects those Non-Integrated Members who are ASO Members. In consideration of the Pass-Through Services with respect to Non-integrated Members, PacificSource shall pay New West the amount which New West is obligated to pay the applicable vendor. The parties shall establish the level of compensation for any Other Services requested by PacificSource and furnished by New West. PacificSource shall remit payment on the first of each month. With respect to Standard Services, the payment will be based on the membership listing as of the fifteenth day of the prior month, subject to routine adjustments to reflect retroactive additions and deletions of members.

5. **Notification of Integration by PacificSource.** PacificSource shall from time to time provide New West lists, in tangible or electronic form, of policies and contracts covering Non-Integrated Members as those policies and contracts are transferred to the PacificSource administrative system; provided, however, that if insured group policy or ASO Contract has transferred to PacificSource, such list shall include the name of the employer group rather than its individual members. Each Plan Member and ASO Member on such a list or who is part of an employer group on such a list shall cease to be a Non-Integrated Member for purposes of Sections 1 and 4 of this Agreement as of the date shown on the list for such member or employer group.

6. **Term of this Agreement.** The Agreement shall become effective as of the Closing Date (the "Effective Date"). Unless earlier terminated as provided in this Agreement, the initial term of this Agreement shall expire twelve (12) months after the Effective Date; provided, however, that if the expiration date will not fall at the end of the applicable calendar month, the expiration shall be extended to the end of such calendar month. If PacificSource provides notice of election not later than sixty (60) days prior to the expiration of the initial term, this Agreement shall thereafter renew for successive three (3) month terms. This Agreement shall be terminable by either party at the end of any renewal term upon written notice given to the other party at least sixty (60) days prior to the end of such term.

7. **Termination.** At PacificSource's sole discretion, PacificSource may elect by written notice to New West to terminate this Agreement: (a) immediately if New West has materially breached this Agreement or the Business Associate Agreement (see Section 8) and failed to cure such breach within a reasonable period of time; or (b) at any time upon ninety (90) days prior written notice to New West. New West may elect by written notice to PacificSource to terminate this Agreement immediately if PacificSource has materially breached this Agreement and failed to cure such breach within a reasonable period of time.

8. Use or Disclosure of Information.

8.1 Confidential Information. For the purposes of this Agreement, "Confidential Information" shall mean any and all confidential information disclosed in connection with the performance of this Agreement or the Services, whether or not owned by the Disclosing Party (as defined below), including, without limitation, information relating to planned or existing businesses or business initiatives, organizational restructuring plans, actual and projected sales, profits and other financial information, information relating to technology, such as computer hardware, computer software, source code, object code, documentation, methods of processing and operational methods, information that describes insurance and financial services products and strategies, including, without limitation, actuarial calculations, product designs, product administration and management, tax interpretations, tax positions and treatment of any item for tax purposes, employee and personnel data and information, the terms of this Agreement, and information concerning each party's enrollees and customers. Confidential Information shall exclude information that (i) is or becomes generally available to the public or is generally known by persons in the financial and/or insurance services industry other than as a result of disclosure by the Receiving Party (as defined below) in violation of this Agreement, (ii) is known or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, provided that the Receiving Party is not aware that such source is under an obligation (whether contractual, legal or fiduciary) to the Receiving Party to keep such information confidential, or (iii) is independently developed by the Receiving Party. For the purposes of this Agreement, the party disclosing Confidential Information shall be referred to as the "Disclosing Party" and the party receiving such disclosure shall be known as the "Receiving Party."

8.2 Acknowledgment and Precautions. The Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information and agrees not to reveal or disclose it for any purpose to any other person (excluding counsel and other advisors, agents or contractors who have a duty of confidentiality, and other persons who are bound by valid and reasonably protective confidentiality agreements and have a need to receive such information for purposes of this Agreement), or to use or permit use of any Confidential Information for any purpose other than as contemplated herein, without the prior written consent of the Disclosing Party. The Receiving Party agrees to maintain adequate security procedures and take reasonable precautions (no less rigorous than the Receiving Party takes with respect to its own comparable confidential information) in an effort to prevent misuse, unauthorized or inadvertent disclosure or loss of the Confidential Information.

8.3 Disclosure of Confidential Information. Confidential Information may be disclosed by the Receiving Party pursuant to any statute, regulation, order, subpoena or document discovery request, or as otherwise required by law or requested by any governmental entities, provided that prior written notice of such disclosure is furnished to the Disclosing Party (if permissible by law) as soon as reasonably practicable in order to afford the Disclosing Party an opportunity to seek a protective order (it being agreed that if the Disclosing Party is unable to obtain or does not seek a protective order prior to the time the Receiving Party is legally compelled to disclose such information, disclosure of such information to the extent required by law or statute may be made without liability).

8.4 Notification Upon Discovery of Disclosure. The Receiving Party shall notify the Disclosing Party promptly upon the Receiving Party's discovery of any prohibited use or disclosure of the Confidential Information, or any breach of this Section B by the Receiving Party, and shall fully cooperate with the Disclosing Party as reasonably requested and at the Disclosing Party's expense to help the

Disclosing Party regain possession of the Confidential Information and prevent any further prohibited use or disclosure of the Confidential Information.

8.5 Return of Confidential Information. Upon the expiration or earlier termination of this Agreement, each Receiving Party shall use commercially reasonable efforts to return to the Disclosing Party all Confidential Information of the Disclosing Party received under or pursuant to the performance of this Agreement (including all copies and summaries thereof, whether tangible or intangible and whether or not created or provided by the Disclosing Party) that is within the Receiving Party's possession, power or control, or destroy same such that it is rendered reasonably irretrievable and no longer within the Receiving Party's possession, power or control.

8.6 Compliance with Law and HIPAA Business Associate Agreement. The parties shall comply with all law with respect to the Services and the performance of this Agreement, including, without limitation, the Health Insurance Portability and Accountability Act of 1996. Without limiting the foregoing, each party shall comply with all law with respect to privacy, data protection and the security of Confidential Information and represents that it has implemented and currently maintains an information security program to protect Recipient's Confidential Information, which program includes administrative, technical, and physical safeguards (i) to ensure the security and confidentiality of Confidential Information; (ii) to protect against any anticipated threats or hazards to the security or integrity of such Confidential Information; and (iii) to protect against unauthorized access to or use of Confidential information that could result in harm or inconvenience to PacificSource or its customers. The parties shall execute a Business Associate Agreement, in substantially the form attached hereto as Exhibit 1. The parties acknowledge and agree that irreparable damage would occur to either party in the event that the other party breaches this Section 8. Accordingly, in addition to any other remedy to which the non-breaching party is entitled at law or in equity, the non-breaching party shall be entitled to injunctive relief in a court of competent jurisdiction to prevent breaches of this Section B and to enforce specifically the terms and provisions of this Section B.

9. Liability; Indemnification.

9.1 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY NOR ANY RELATED ENTITY THEREOF SHALL BE LIABLE TO THE OTHER PARTY, ANY RELATED ENTITY THEREOF OR ANY OTHER THIRD PERSON UNDER THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, RELIANCE OR PUNITIVE DAMAGES OR LOST OR IMPUTED PROFITS, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY), INDEMNITY OR CONTRIBUTION, AND IRRESPECTIVE OF WHETHER A PARTY OR ANY RELATED ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

9.2 Indemnification. PacificSource and New West are not agents of each other and neither shall be liable for the acts or omissions of the other. The relationship of the parties hereto shall be construed solely as New West being an independent contractor providing contracted services to PacificSource. Each party agrees to defend, indemnify, and hold harmless the other party and its directors, officers, employees, representatives, and agents from and against any and all losses, liabilities, judgments, awards, and costs (including attorney fees and litigation costs) arising solely out of or related solely to the acts or omissions of the indemnifying party during the term of this Agreement.

10. **Employees.** Both parties agree not to recruit, either directly or indirectly, the other party's employees, whether associated with the delivery of information technology or otherwise, during the term of this Agreement and one (1) year thereafter without the other party's prior written consent; provided, however, that a party shall not be considered to have breached its obligations under this Section 10 as a result of engaging in discussions with, and subsequently employing or engaging, one or more employee(s) of the other party if such employee(s) approaches such party concerning employment or any other engagement in response to a standard job posting or a general classified advertisement such party placed in a newspaper or other publication of general circulation or a professional publication, including over the internet.

11. **Miscellaneous Provisions.**

11.1 *Binding Effect.* The provisions of this Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties.

11.2 *Assignment.* Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other party.

11.3 *Notices.* All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Buyer:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: Kenneth P. Provencher, President/CEO
Facsimile No.: (541) 684-5575

With a copy to:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: General Counsel
Facsimile No.: (541) 684-5475

To the Seller:

New West Health Services
130 Neill Avenue
Helena, MT 59601
Attn: David Kibbe, President/CEO
Facsimile No.: (406) 457-2299

With a copy to:

Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
2001 Commonwealth Blvd., Suite 300
Ann Arbor, MI 48105
Facsimile No.: (734) 372-4101

All notices or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

11.4 *Exhibits.* The exhibits referenced in this Agreement are part of this Agreement as if fully set forth in this Agreement.

11.5 Headings. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

11.6 Arbitration; Waiver of Jury Trial.

(a) The parties will work together in good faith to resolve any and all disputes between them (hereinafter referred to as "Disputes") including but not limited to all questions of arbitrability, the existence, validity, or scope of the Agreement. If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, the Dispute shall thereafter be submitted to binding arbitration before a panel of three arbitrators in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time; provided, however, the parties shall not submit to arbitration any Disputes where a party seeks specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief. Any arbitration proceeding under this Agreement shall be conducted in Lewis and Clark County, Montana. The arbitrator(s) may construe or interpret but shall not vary or ignore the terms of this Agreement and shall be bound by controlling law. The arbitrator(s) shall have no authority to award punitive, exemplary, indirect or special damages. The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof, consistent with Section 11.6(b) below. In the event that any portion of this Section 11.6 or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Section or Agreement. In the event any court determines that this arbitration procedure is not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, such litigation. Such litigation would instead proceed with the judge as the finder of fact. This Section 11.6 governs any dispute between the parties arising after execution of this Agreement, and shall survive any termination of this Agreement.

(b) Any legal action or proceeding seeking specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief, and any legal action or proceeding seeking enforcement of any arbitration award in respect to this Agreement, may be brought in the courts of the State of Montana or of the United States of America for the District of Montana, and, by execution and delivery of this Agreement, the parties hereby accept for themselves and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts and appellate courts. The parties waive the right to trial by jury with respect to any claims hereby. The parties further irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the parties at its addresses referred to in Section 11.3. The parties hereby irrevocably waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to and hereby further irrevocably waive and agree, to the extent permitted by applicable law, not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed in any other jurisdiction.

11.7 Entire Agreement; Modification. This Agreement, together with the Asset Purchase Agreement (including the documents, instruments and agreements referenced therein), constitutes the

entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties.

11.8 Severability. If any provision of this Agreement is deemed to be invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be impaired in any way.

11.9 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

11.10 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Montana, without regard to conflict-of-laws principles that would require the application of any other law.

11.11 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

11.12 Facsimile Signatures. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmitted signatures by signing an original document.

11.13 Authority to Execute. Each person executing this Agreement on behalf of a party warrants his or her authority to do so.

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: _____
Nicholas Wolter, M.D.
Chairman of the Board

PacificSource Health Plans

By: _____
Kenneth P. Provencher
President and Chief Executive Officer

EXHIBIT 1
HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement (this "Agreement"), dated as of _____, 201__, is between New West Health Services ("New West"), a Montana non-profit corporation, and PacificSource Health Plans ("PacificSource"), an Oregon non-profit corporation.

RECITALS

- A. PacificSource wishes to disclose certain information ("information") to New West pursuant to the terms of this Agreement, some of which may constitute Protected Health Information ("PHI").
- B. PacificSource and New West intend to protect the privacy and provide for the security of PHI disclosed to the New West pursuant to that certain Transition Period Administrative Services Agreement between the parties, dated _____, 201__ (the "Transition Period Administrative Services Agreement"), in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), and regulations promulgated thereunder (the "HIPAA Regulations"), the American Recovery and Reinvestment Act of 2009, and regulations promulgated thereunder (collectively, "ARRA"), and other applicable laws.
- C. The purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504 (e) of the Code of Federal Regulations ("CFR"), as the same may be amended from time to time.

AGREEMENT

NOW, THEREFORE, based upon the premises and considerations set forth herein, New West and PacificSource agree as follows:

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to such terms in 45 CFR Parts 160 and 164, or in the ARRA.

2. **Obligations of New West.**

2.1 *Permitted Uses and Disclosures.* New West may use and/or disclose PHI only as required to satisfy its obligations under the Transition Period Administrative Services Agreement, as permitted herein, or required by law, but shall not otherwise use or disclose any PHI.

2.2 *Safeguards.* New West shall use commercially reasonable safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. New West shall maintain a comprehensive written information privacy and security program that includes administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of PacificSource, as required by 45 CFR 164.314(a)(2)(i)(A).

2.3 *Reporting of Disclosures.* New West shall report to PacificSource any use or disclosure of PHI otherwise than as provided for by this Agreement of which New West becomes aware. New

West shall also report to PacificSource any Security Incident related to PHI of which New West becomes aware.

2.4 Mitigation. New West agrees to mitigate, to the extent practicable, any harmful effect that is known to New West of a use or disclosure of PHI by New West in violation of this Agreement.

2.5 New West's Agents. New West shall ensure that any agents, including subcontractors, to whom it delegates any function or activity it has undertaken to perform on behalf of PacificSource, and to whom it provides PHI received from (or created or received by New West on behalf of) PacificSource, agree to the same restrictions and conditions that apply to New West with respect to such PHI.

2.6 Availability of Information to PacificSource. New West shall make available to PacificSource such information as PacificSource may require to fulfill the obligations of PacificSource to provide access to, provide a copy of, and account for disclosures with respect to PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 164.524 and 164.528.

2.7 Amendment of PHI. New West shall make PHI available to PacificSource as PacificSource may require to fulfill PacificSource obligations to amend PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 164.526 and New West shall, as directed by PacificSource, incorporate any amendments to PHI into copies of such PHI maintained by New West.

2.8 Internal Practices. New West shall make its internal practices, books, and records relating to the use and disclosure of PHI received from (or created or received by New West on behalf of) PacificSource available to the Secretary for purposes of determining the compliance of PacificSource with HIPAA and the HIPAA Regulations.

2.9 New West's Insurance. New West shall maintain its current liability insurance coverages during the term of the Transition Period Administrative Services Agreement.

2.10 Notification of Breach. During the term of this Agreement, New West shall notify PacificSource within ten (10) business days of any suspected act or actual Breach of security, intrusion or unauthorized use or disclosure of PHI and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. New West shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations. The notice to PacificSource regarding a Breach must include: (i) a brief description of the Breach; (ii) the date that the Breach occurred; (iii) the date New West discovered the Breach; (iv) a description of the different categories of PHI involved in the Breach; (v) the steps taken to date and the status of New West's investigation; (vi) the steps New West has taken to mitigate the harm caused by the Breach; and (vii) the steps New West has taken or will take to prevent a recurrence of the type of Breach experienced.

2.11 Obligations imposed by the American Recovery and Reinvestment Act of 2009. New West agrees to comply with all applicable provisions of the ARRA, and any regulations or guidance promulgated or issued thereunder, as of the effective date of those provisions, including without limitation the additional compliance with the Security Rule and the Breach notice requirements. To the extent practicable, New West shall use a Limited Data Set (as defined in the HIPAA Regulations) with respect to PHI of PacificSource. If not practicable, New West shall use the least amount of PHI necessary to achieve the intended purpose. New West shall comply with any guidance issued by the Secretary of

the United States Department of Health and Human Services regarding the minimal necessary use and disclosure of PHI.

3. Audits, Inspections and Enforcement. From time to time upon reasonable notice, or upon reasonable determination by PacificSource that New West has breached this Agreement, PacificSource may inspect the facilities, systems, books and records of New West to monitor compliance with this Agreement. New West shall promptly remedy any violation of any term of this Agreement and shall certify the same to PacificSource in writing. The fact that PacificSource inspects, or fails to inspect, or has the right to inspect, New West's facilities, systems and procedures does not relieve New West of its responsibility to comply with this Agreement, nor does PacificSource's (i) failure to detect or (ii) detection but failure to notify New West or require New West's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of PacificSource enforcement rights under this Agreement.

4. Termination.

4.1 Material Breach. A breach by New West of any provision of this Agreement, as determined by PacificSource, shall constitute a material breach of the Transition Period Administrative Services Agreement and shall provide grounds for immediate termination of the Transition Period Administrative Services Agreement by PacificSource pursuant to termination provisions for breach contained in the Transition Period Administrative Services Agreement.

4.2 Reasonable Steps To Cure Breach. If PacificSource knows of a pattern of activity or practice of New West that constitutes a material breach or violation of New West's obligations under the provisions of this Agreement or another arrangement and does not terminate the Transition Period Administrative Services Agreement pursuant to the termination provisions of the Transition Period Administrative Services Agreement, then New West shall take reasonable steps to cure such breach or end such violation as applicable. If New West's efforts to cure such breach or end such violation are unsuccessful, PacificSource shall either (i) terminate the Transition Period Administrative Services Agreement, if feasible, or (ii) if termination of the Transition Period Administrative Services Agreement is not feasible, PacificSource shall report New West's breach or violation to the Secretary.

4.3 Judicial or Administrative Proceedings. PacificSource may terminate the Transition Period Administrative Services Agreement effective immediately if (i) New West is named as a defendant in a criminal proceeding for a violation of HIPAA or (ii) a finding or stipulation that New West has violated any standard or requirement of HIPAA or other security or privacy laws is made in any administrative or civil proceeding in which New West has been joined.

4.4 Effect of Termination. Upon termination of this Agreement for any reason, New West shall return or destroy all PHI received from PacificSource (or created or received by New West on behalf of PacificSource) that New West still maintains in any form and shall retain no copies of such PHI or, if the return or destruction is not feasible, it shall continue to extend the protections of this Agreement to such information.

5. Indemnification. The provisions of the Transition Period Administrative Service Agreement with respect to liability and Indemnification apply to this Agreement.

6. **Disclaimer.** PacificSource makes no warranty or representation that compliance by New West with this Agreement, HIPAA, the HIPAA Regulations, or ARRA will be adequate or satisfactory for New West's own purposes or that any information in New West's possession or control or transmitted or received by New West, is or will be secure from unauthorized use or disclosure. New West is solely responsible for all decisions made by New West regarding the safeguarding of PHI.

7. **Amendment To Comply With Law.** The parties acknowledge that state and federal laws relating to Electronic Data Security and privacy may be evolving and that the amendment of this Agreement may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations, ARRA, and other applicable laws relating to the security and confidentiality of PHI. The parties understand and agree that PacificSource must receive satisfactory written assurance from New West that New West will adequately safeguard all PHI that it receives or creates pursuant to this Agreement. Upon PacificSource's request, New West agrees to promptly enter into negotiations with PacificSource concerning the terms of an amendment to this Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Regulations, ARRA, or other applicable laws. PacificSource may terminate the Transition Period Administrative Services Agreement upon thirty (30) days written notice in the event New West does not promptly enter into negotiations to amend this Agreement when requested by PacificSource pursuant to this section.

8. **Assistance in Litigation or Administrative Proceedings.** New West shall make itself and any subcontractors, employees or agents assisting New West in the performance of its obligations under this Agreement, available to PacificSource, at no cost to PacificSource, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against PacificSource, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, except where New West or its subcontractors, employee or agent is a named adverse party.

9. **No Third Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than PacificSource, New West and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

10. **Survival.** The respective rights and obligations of New West under section 4.4 shall survive termination for so long as New West maintains PHI related to this Agreement.

11. **Interpretation.** This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations, ARRA, and applicable state laws. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HIPAA Regulations, and ARRA.

Signature Page Follows

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: _____

Nicholas Wolter, M.D.

Chairman of the Board

PacificSource Health Plans

By: _____

Kenneth P. Provencher

President and Chief Executive Officer

LICENSE AGREEMENT

This License Agreement (this "Agreement"), dated as of _____, 201____, is between New West Health Services (the "Seller"), a Montana non-profit corporation, and PacificSource Health Plans (the "Buyer"), an Oregon non-profit corporation.

RECITALS

- A. The Buyer has agreed to purchase the Commercial Business and ASO Contracts of Seller pursuant to that certain Asset Purchase Agreement dated December __, 2011 (the "Asset Purchase Agreement"). The transactions contemplated by the Asset Purchase Agreement are beneficial to the Seller.
- B. The Seller's entering into this Agreement is a condition of the closing of the transactions contemplated under the Asset Purchase Agreement.
- C. Initially capitalized terms used in this Agreement that are not otherwise defined in this Agreement shall have the meaning assigned to such terms under the Asset Purchase Agreement.

AGREEMENT

NOW, THEREFORE, based upon the premises and considerations set forth herein, New West and PacificSource agree as follows:

1. License.

1.1 The Seller hereby grants the Buyer access to all of the Seller's electronic databases and systems containing information about the Commercial Business, ASO Contracts and the Seller's provider network, both current and historical (the "Electronic Databases"), solely for purpose of enabling the Buyer to assume the Commercial Business Subscriber Contracts and ASO Contracts and otherwise consummate and implement the transactions contemplated under the Asset Purchase Agreement. The Seller hereby grants the Buyer a nontransferable, nonexclusive license to use all computer software required to access the Electronic Databases (the "Software") solely for the above-referenced purpose. To the extent that the Seller does not own the Electronic Databases or the Software, the Seller will obtain, at the Seller's expense, all requisite licenses from applicable third parties to obtain licenses for the Buyer. Buyer agrees that it does not intend to utilize the License provided hereunder if it is able to obtain the data upon request to the Seller. If the Buyer concludes it needs to access the Electronic Databases directly through the License provided hereunder, it will provide advance notice to the Seller.

(a) Seller may designate and make changes in rules of operation, accessibility periods, identification procedures, type of terminal equipment, allocation and quantity of system resources utilized, system programming languages, operations software, administrative and operational algorithms, and designation of the particular computer center serving Buyer at any particular address.

(b) In the event customization of the Software (including, without limitation, providing interfaces and other conversions) is requested by Buyer or is reasonably necessary for Buyer to access the Electronic Databases, the parties shall agree upon the appropriate level of compensation to Seller for such services. The parties agree that any customization of the Software that occurs under this

Agreement and which is comparable to the customization of the Software that occurs in the normal course of business of Buyer when it adds a new ASO Contract will not require additional compensation under this Section 1.1(b).

(c) Buyer agrees that the access to the Electronic Databases will be provided utilizing only the existing Seller computer network location(s) and that Buyer will, at Buyer's expense, and upon receiving instructions from Seller, install, maintain and provide all terminal equipment, telecommunication lines and other facilities and personnel reasonably necessary to interface with any such network location(s). Seller shall not be obligated to bear costs associated with the bridging by Seller to Buyer sites, networks and data and other transmissions.

(d) To the extent that Seller and/or Buyer are given access (each in such capacity, a "Guest User") to the other's computer system(s), facilities, networks, databases or software (collectively, "Systems") in connection with this Agreement and the Transition Period Administrative Services Agreement, such Guest User shall comply with the other party's (each in such capacity, a "Host") (i) Systems security policies, procedures and requirements, and (ii) privacy policies (collectively, the "Security Regulations"). The Guest User will not tamper with, compromise or circumvent any security or audit measures employed by the Host. The Host may in its sole discretion require the Guest User's personnel to execute a separate Systems access agreement prior to granting such personnel access to Host's Systems. The Guest User shall ensure that only those personnel specifically authorized to access the Host's Systems on behalf of Guest User do so. The Guest User shall use commercially reasonable efforts to prevent unauthorized destruction, alteration or loss of information contained on the Host's Systems. Each Host shall be provided reasonably sufficient access, at reasonable times upon reasonable notice, to audit the Guest User's use of the Host's Systems and compliance with the Host's Security Regulations. The Guest User and Host shall use commercially reasonable efforts upon the termination or expiration of any Services to ensure that all applicable user IDs and passwords assigned to the Guest User are cancelled.

1.2 From time to time, at the request of the Buyer and in the format required by the Buyer, the Seller will create extracts of data from its Electronic Databases and transmit such data to the Buyer. The parties shall mutually agree on the timeline for such transmissions of data, while recognizing the time-sensitive nature of the transfer of the Commercial Business and ASO Contracts to the Buyer and that time is of the essence.

1.3 The Seller shall provide reasonable assistance to the Buyer in providing the access granted in Section 1.1. Immediately after execution of this Agreement, the parties will work cooperatively together to establish reasonable policies and procedures with respect such assistance to be provided by the Seller.

1.4 The Buyer acknowledges and agrees that the Seller shall retain exclusive ownership of its Electronic Databases, Software, data and other intellectual property provided pursuant to this Agreement.

1.5 Except as may be otherwise provided in the Asset Purchase Agreement, neither party may use the other party's trademarks, service marks, trade names, domain names or other source identifiers without the other party's prior written consent.

2. **Term of this Agreement.** The initial term of this Agreement shall expire once the Buyer has fully incorporated all necessary information into the Buyer's own electronic databases; provided, however,

that this Agreement will expire no later than the later of twenty-four (24) months after the Closing Date or twelve (12) months after expiration of the Transition Period Administrative Services Agreement. Either party may elect by written notice to the other party to terminate this Agreement immediately if the other party has materially breached this Agreement and failed to cure such breach within a reasonable period of time.

3. Indemnification; Liability; Disclaimers.

3.1 Indemnification.

(a) The Seller shall, at its expense, defend, indemnify, and hold harmless the Buyer from any claim or action against the Buyer to the extent such claim or action is based on a claim that the Buyer's use of the Electronic Databases or the Software or any part thereof under this Agreement infringes a patent, copyright, or other proprietary right or misappropriates a trade secret, and the Seller shall pay the damages and costs (including reasonable attorney fees) in respect of such claim; provided, however, that the Seller is promptly given notice in writing of such claim. The Seller shall control the defense of any such claim or action and, at its discretion, may enter into a stipulation of discontinuance and settlement thereof.

(b) The Buyer agrees to indemnify, defend and hold the Seller harmless from and against, and to reimburse the Seller for all fees and expenses (including reasonable attorneys' fees and expenses) as they are incurred in defending against, any and all claims, suits, damages, liabilities, costs, penalties and expenses arising from or related to any breach by the Buyer of its obligations and responsibilities pursuant to this Agreement.

3.2 *Limitation of Liability.* TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY OTHER THIRD PERSON UNDER THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, RELIANCE OR PUNITIVE DAMAGES OR LOST OR IMPUTED PROFITS, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER LIABILITY IS ASSERTED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY), INDEMNITY OR CONTRIBUTION, AND IRRESPECTIVE OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE.

3.3 *Disclaimers.* EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, THE LICENSE, ACCESS TO THE SELLER'S NETWORK SYSTEM ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHER WARRANTIES, CONDITIONS, GUARANTEES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED.

4. Use or Disclosure of Information.

4.1 *Confidential Information.* For the purposes of this Agreement, "Confidential Information" shall mean any and all confidential information disclosed in connection with the performance of this Agreement or the License, whether or not owned by the Disclosing Party (as defined

below), including, without limitation, information relating to planned or existing businesses or business initiatives, organizational restructuring plans, actual and projected sales, profits and other financial information, information relating to technology, such as computer hardware, computer software, source code, object code, documentation, methods of processing and operational methods, information that describes insurance and financial services products and strategies, including, without limitation, actuarial calculations, product designs, product administration and management, tax interpretations, tax positions and treatment of any item for tax purposes, employee and personnel data and information, the terms of this Agreement, and information concerning each party's enrollees and customers. Confidential Information shall exclude information that (i) is or becomes generally available to the public or is generally known by persons in the financial and/or insurance services industry other than as a result of disclosure by the Receiving Party (as defined below) in violation of this Agreement, (ii) is known or becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party, provided that the Receiving Party is not aware that such source is under an obligation (whether contractual, legal or fiduciary) to the Receiving Party to keep such information confidential, or (iii) is independently developed by the Receiving Party. For the purposes of this Agreement, the party disclosing Confidential Information shall be referred to as the "Disclosing Party" and the party receiving such disclosure shall be known as the "Receiving Party."

4.2 Acknowledgment and Precautions. The Receiving Party acknowledges the confidential and proprietary nature of the Confidential Information and agrees not to reveal or disclose it for any purpose to any other person (excluding counsel and other advisors, agents or contractors who have a duty of confidentiality, and other persons who are bound by valid and reasonably protective confidentiality agreements and have a need to receive such information for purposes of this Agreement), or to use or permit use of any Confidential Information for any purpose other than as contemplated herein, without the prior written consent of the Disclosing Party. The Receiving Party agrees to maintain adequate security procedures and take reasonable precautions (no less rigorous than the Receiving Party takes with respect to its own comparable confidential information) in an effort to prevent misuse, unauthorized or inadvertent disclosure or loss of the Confidential Information.

4.3 Disclosure of Confidential Information. Confidential information may be disclosed by the Receiving Party pursuant to any statute, regulation, order, subpoena or document discovery request, or as otherwise required by law or requested by any governmental entities, provided that prior written notice of such disclosure is furnished to the Disclosing Party (if permissible by law) as soon as reasonably practicable in order to afford the Disclosing Party an opportunity to seek a protective order (it being agreed that if the Disclosing Party is unable to obtain or does not seek a protective order prior to the time the Receiving Party is legally compelled to disclose such information, disclosure of such information to the extent required by law or statute may be made without liability).

4.4 Notification Upon Discovery of Disclosure. The Receiving Party shall notify the Disclosing Party promptly upon the Receiving Party's discovery of any prohibited use or disclosure of the Confidential Information, or any breach of this Section 4 by the Receiving Party, and shall fully cooperate with the Disclosing Party as reasonably requested and at the Disclosing Party's expense to help the Disclosing Party regain possession of the Confidential Information and prevent any further prohibited use or disclosure of the Confidential Information.

4.5 Return of Confidential Information. Upon the expiration or earlier termination of this Agreement, each Receiving Party shall use commercially reasonable efforts to return to the Disclosing Party all Confidential Information of the Disclosing Party received under or pursuant to the performance

of this Agreement (including all copies and summaries thereof, whether tangible or intangible and whether or not created or provided by the Disclosing Party) that is within the Receiving Party's possession, power or control, or destroy same such that it is rendered reasonably irretrievable and no longer within the Receiving Party's possession, power or control.

4.6 Compliance with Law. The parties shall comply with all law with respect to the Services and the performance of this Agreement, including, without limitation, the Health Insurance Portability and Accountability Act of 1996. Without limiting the foregoing, each party shall comply with all law with respect to privacy, data protection and the security of Confidential Information and represents that it has implemented and currently maintains an information security program to protect Recipient's Confidential Information, which program includes administrative, technical, and physical safeguards (i) to ensure the security and confidentiality of Confidential Information; (ii) to protect against any anticipated threats or hazards to the security or integrity of such Confidential Information; and (iii) to protect against unauthorized access to or use of Confidential information that could result in harm or inconvenience to PacificSource or its customers.

5. Employees. Both parties agree not to recruit, either directly or indirectly, the other party's employees, whether associated with the delivery of information technology or otherwise, during the term of this Agreement and one (1) year thereafter without the other party's prior written consent; provided, however, that a party shall not be considered to have breached its obligations under this Section 5 as a result of engaging in discussions with, and subsequently employing or engaging, one or more employee(s) of the other party if such employee(s) approaches such party concerning employment or any other engagement in response to a standard job posting or a general classified advertisement such party placed in a newspaper or other publication of general circulation or a professional publication, including over the internet.

6. Miscellaneous Provisions.

6.1 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other party.

6.2 Notices. All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Buyer:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: Kenneth P. Provencher, President/CEO
Facsimile No.: (541) 684-5575

With a copy to:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: General Counsel
Facsimile No.: (541) 684-5475

To the Seller:

New West Health Services
130 Neill Avenue
Helena, MT 59601

With a copy to:

Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
2001 Commonwealth Blvd., Suite 300

Attn: David Kibbe, President/CEO
Facsimile No.: (406) 457-2299

Ann Arbor, MI 48105
Facsimile No.: (734) 372-4101

All notices or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

6.3 Headings. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

6.4 Arbitration; Waiver of Jury Trial.

(a) The parties will work together in good faith to resolve any and all disputes between them (hereinafter referred to as "Disputes") including but not limited to all questions of arbitrability, the existence, validity, or scope of the Agreement. If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, the Dispute shall thereafter be submitted to binding arbitration before a panel of three arbitrators in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time; provided, however, the parties shall not submit to arbitration any Disputes where a party seeks specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief. Any arbitration proceeding under this Agreement shall be conducted in Lewis and Clark County, Montana. The arbitrator(s) may construe or interpret but shall not vary or ignore the terms of this Agreement and shall be bound by controlling law. The arbitrator(s) shall have no authority to award punitive, exemplary, indirect or special damages. The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof, consistent with Section 6.4(b) below. In the event that any portion of this Section 6.4 or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Section or Agreement. In the event any court determines that this arbitration procedure is not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, such litigation. Such litigation would instead proceed with the judge as the finder of fact. This Section 6.4 governs any dispute between the parties arising after execution of this Agreement, and shall survive any termination of this Agreement.

(b) Any legal action or proceeding seeking specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief, and any legal action or proceeding seeking enforcement of any arbitration award in respect to this Agreement, may be brought in the courts of the State of Montana or of the United States of America for the District of Montana, and, by execution and delivery of this Agreement, the parties hereby accept for themselves and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts and appellate courts. The parties waive the right to trial by jury with respect to any claims hereby. The parties further irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the parties at its addresses referred to in Section 6.2. The parties hereby irrevocably waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to and hereby further irrevocably waive and agree, to the extent permitted by applicable law, not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient

forum. Nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed in any other jurisdiction.

6.5 Entire Agreement; Modification. This Agreement, together with the Asset Purchase Agreement (including the documents, instruments and agreements referenced therein), constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties.

6.6 Severability. If any provision of this Agreement is deemed to be invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be impaired in any way.

6.7 Waiver. Any provision or condition of this Agreement may be waived at any time, in writing, by the party entitled to the benefit of such provision or condition. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

6.8 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Montana, without regard to conflict-of-laws principles that would require the application of any other law.

6.9 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

6.10 Facsimile Signatures. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmitted signatures by signing an original document.

6.11 Authority to Execute. Each person executing this Agreement on behalf of a party warrants his or her authority to do so.

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: _____
Nicholas Wolter, M.D.
Chairman of the Board

PacificSource Health Plans

By: _____

Kenneth P. Provencher
President and Chief Executive Officer

NON-COMPETITION AGREEMENT

This Non-Competition Agreement (this "Agreement"), dated as of _____, 201____, is between New West Health Services (the "Seller"), a Montana non-profit corporation, and PacificSource Health Plans (the "Buyer"), an Oregon non-profit corporation.

RECITALS

- A. The Buyer has agreed to purchase the Commercial Business and ASO Contracts of the Seller pursuant to that certain Asset Purchase Agreement dated December __, 2011 (the "Asset Purchase Agreement"). The transactions contemplated by the Asset Purchase Agreement are beneficial to the Seller.
- B. The Seller's entering into this Agreement is a condition of the closing of the transactions contemplated under the Asset Purchase Agreement.
- C. The Seller recognizes that competition by the Seller with the Buyer in the manner prohibited by this Agreement would have detrimental and damaging effect on the Buyer and would undermine the parties' intentions in entering into the Asset Purchase Agreement.
- D. Initially capitalized terms used in this Agreement that are not otherwise defined in this Agreement shall have the meaning assigned to such terms under the Asset Purchase Agreement.

AGREEMENT

NOW, THEREFORE, based upon the premises and considerations set forth herein, New West and PacificSource agree as follows:

- 1. **Incorporation of Recitals.** The foregoing recitals are by this reference incorporated into this Agreement.
- 2. **Non-Compete.**

2.1 Seller and Entities Controlled by Seller. The Seller agrees that during the Non-Compete Period (as defined below), the Seller and any entity owned (directly or indirectly in any percentage) by the Seller or under common control of the Seller, will not own, manage, control, participate in, consult with, advertise on behalf of, render services for, or in any manner engage in, any Competitive Business (as defined below) or solicit any other person or entity to engage in any of the foregoing activities or knowingly request, induce, or attempt to influence any then existing customer of the Buyer, to curtail any business they are then transacting with the Buyer or in the previous twenty-four (24) months had been transacting with the Buyer or the Seller. Furthermore, during the Non-Compete Period, the Seller shall not, without the Buyer's prior written consent, directly or indirectly, knowingly solicit or encourage or attempt to influence, or cause any third party to encourage or attempt to influence, any employee to leave the employment of the Buyer.

2.2 Member Hospitals. The Seller agrees that during the Non-Compete Period (as defined below), neither Seller nor any Member Hospital will form or own an insurance company, health maintenance organization, health service corporation or other health plan for the purpose of engaging

in any Competitive Business (as defined below); provided however, Seller and Member Hospitals may maintain any ownership interests in any publicly traded entity.

3. Definitions.

3.1 "Business" means providing health benefits coverage (including without limitation medical, dental, vision and pharmacy benefits) on a fully insured or administrative services only ("ASO") basis to Commercial Customers. The term "Business" does not include the activities of New West subsequent to the Closing Date with respect to Commercial Customers that are contemplated under the Asset Purchase Agreement or Transition Period Administrative Services Agreement.

3.2 "Commercial Customers" means individuals, employer groups (both large and small) and associations. The term "Commercial Customers" does not include the business of customers relating to (a) Medicare Advantage, (b) Medicare Part D, (c) Medicare Supplement, (d) Medicaid, including dual eligibles, or (e) the basic health plan under Section 1331 of the Patient Protection and Affordable Care Act, as amended, provided that such basic health plan coverage is incidental to Seller's government programs business.

3.3 "Competitive Business" means engaging in "Business" within the "Restricted Territory."

3.4 "Non-Compete Period" means the period commencing on the date hereof and ending five (5) years after the Closing Date.

3.5 "Restricted Territory" means the State of Montana.

4. **Enforceability.** If, at the time of enforcement of any provision of this Agreement, a court holds that the restrictions stated herein are unreasonable or unenforceable under circumstances then existing, the parties hereto agree that the maximum period, scope, and/or geographical area, as the case may be, that is/are reasonable or permissible under such circumstances will be substituted for the stated period, scope and/or area, as the case may be.

5. **Damages.** The parties hereto agree and acknowledge that money damages may not be an adequate remedy for any breach of the provisions of this Agreement. Therefore, in the event of a breach by the Seller of any of the provisions of this Agreement, the Buyer or its successors or assigns, may, in addition to other rights and remedies existing in its favor, apply to any court of law or equity of competent jurisdiction in the state of Montana for specific performance and/or injunctive or other relief in order to enforce or prevent any violation of the provisions hereof.

6. Miscellaneous Provisions.

6.1 *Successors and Assigns.* This Agreement shall be binding upon the successor and assigns of the parties. Each affiliate of the Buyer shall be third party beneficiary of this Agreement, but the consent of such affiliates shall not be necessary to amend this Agreement.

6.2 *Notices.* All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties

at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Buyer:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: Kenneth P. Provencher, President/CEO
Facsimile No.: (541) 684-5575

With a copy to:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: General Counsel
Facsimile No.: (541) 684-5475

To the Seller:

New West Health Services
130 Neill Avenue
Helena, MT 59601
Attn: David Kibbe, President/CEO
Facsimile No.: (406) 457-2299

With a copy to:

Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
2001 Commonwealth Blvd., Suite 300
Ann Arbor, MI 48105
Facsimile No.: (734) 372-4101

All notices or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

6.3 Entire Agreement; Modification. This Agreement, together with the Asset Purchase Agreement (including the documents, instruments and agreements referenced therein), constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties.

6.4 Waiver. A failure by a party to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.

6.5 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Montana, without regard to conflict-of-laws principles that would require the application of any other law.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

6.7 Facsimile Signatures. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmitted signatures by signing an original document.

6.8 Authority to Execute. Each person executing this Agreement on behalf of a party warrants his or her authority to do so.

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: _____

Nicholas Wolter, M.D.
Chairman of the Board

PacificSource Health Plans

By: _____

Kenneth P. Provencher
President and Chief Executive Officer

Exhibit D

FIRST RIGHT OF OFFER

This First Right of Offer (this "Agreement"), dated as of _____, 201____, is between New West Health Services ("New West"), a Montana non-profit corporation, and PacificSource Health Plans ("PacificSource"), an Oregon non-profit corporation.

RECITALS

- A. New West operates a health services corporation, which currently provides Medicare Advantage, Medicare Part D and Medicare Supplement coverage on a fully-insured basis (the "Medicare Business").
- B. PacificSource operates as a health care services contractor and is interested in acquiring the Medicare Business from New West at some point in the future.
- C. New West is willing to grant to PacificSource the right to make the first offer to purchase the Medicare Business before New West accepts an offer from a third party or otherwise disposes of or discontinues the Medicare Business. New West and PacificSource desire to evidence their agreement regarding this right.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, New West and PacificSource agree as follows:

- 1. **Incorporation of Recitals.** The foregoing recitals are by this reference incorporated into this Agreement.
- 2. **First Right of Offer.** New West hereby grants to PacificSource the right to offer to purchase the Medicare Business on the terms and conditions set forth below (the "First Right of Offer"). Except as expressly provided in this Agreement, New West shall not at any time during the term of the First Right of Offer sell, offer to sell, contract to sell, transfer, exchange, grant an option to sell, or otherwise dispose of or discontinue the Medicare Business (or any portion thereof or interest therein) to any party other than PacificSource.
- 3. **Term of the First Right of Offer.** The First Right of Offer shall expire and be of no further force or effect on the earliest of (a) five (5) years after the date of this Agreement, or (b) except as expressly provided otherwise in this Agreement, upon the expiration of the Exercise Period (as defined below).
- 4. **Exercise of Right.** During the term of the First Right of Offer, New West shall give PacificSource written notice of any determination by New West (which determination shall be in New West's sole discretion) to offer to sell or otherwise transfer the Medicare Business to a third party ("Sale Determination") or discontinue the Medicare Business without selling or otherwise transferring the Medicare Business to a third party, although the enrollees in the Medicare Business may select comparable coverage from a third party ("Discontinuation Determination"). PacificSource shall then have the right to exercise the First Right of Offer by delivering to New West during the sixty (60) day

period immediately following PacificSource's receipt of New West's notice (the "Exercise Period") one or more written offers stating the material terms under which PacificSource would be willing to purchase the Medicare Business, including the Material Economic Terms (defined in Section 6.1 below), any conditions of closing, any contingencies, and the proposed date of closing (the "Offer" or "Offers"). The parties acknowledge that the purchase may need to be structured as a purchase of the corporate membership interests of New West or a merger in order for the Medicare Advantage and Medicare Part D contract with the Centers for Medicare and Medicaid Services to continue.

5. New West's Acceptance of Offer. If PacificSource delivers a timely Offer to New West and New West accepts such Offer, the parties shall be obligated to enter into a purchase and sale agreement consistent with the Offer. It is understood and agreed that the purchase and sale agreement entered into by the parties will have the usual conditions to closing, including without limitation the requirement that all third-party and government consents, authorizations, and approvals needed for closing the transaction will have been obtained and be final and non-appealable.

6. Sale to Third Party.

6.1 If New West rejects all Offers from PacificSource and the Exercise Period has expired, New West may (a) sell or otherwise transfer the Medicare Business to any third party in cases where a Sale Determination has been made and the Material Economic Terms (defined below) are more favorable than the Material Economic Terms specified in PacificSource's final Offer; or (b) terminate the Medicare Business in cases where a Discontinuation Determination has been made. As used in this Agreement, the term "Material Economic Terms" refers to all terms relating to the sale or transfer that affect in a significant manner the economic benefits of the transaction to New West and its corporate members, including without limitation (i) purchase price and whether the purchase price is paid in installments; (ii) sale structure (e.g., asset purchase versus purchase of corporate membership interests or merger); (iii) assumption of liabilities; (iv) provider participation agreements among the corporate members of New West and their affiliates; (v) employment of New West employees; and (vi) arrangements for, and the costs associated with, running off the New West liabilities and winding up the business of New West (where the sale or transfer is not structured as a purchase of corporate membership interests or merger).

6.2 If PacificSource failed to deliver any Offers to New West during the Exercise Period, New West may (a) sell or otherwise transfer the Medicare Business to any third party in cases where a Sale Determination has been made upon any terms in New West's sole discretion; or (b) terminate the Medicare Business in cases where a Discontinuation Determination has been made.

6.3 If a transfer by New West to a third party is consummated pursuant to Sections 6.1 or 6.2, PacificSource's rights hereunder shall be automatically extinguished, and PacificSource agrees to execute all documents reasonably requested by New West in order to evidence the extinguishment of its rights hereunder.

6.5 Notwithstanding the foregoing provisions of this Section 6, (a) if PacificSource fails to timely exercise PacificSource's rights under Section 4 of this Agreement or if New West rejects all of PacificSource's timely Offers, and (b) for any reason New West does not transfer the Medicare Business to a third party pursuant to this Section 6 within one hundred eighty (180) days after the end of the Exercise Period, then PacificSource's rights under this Agreement shall be restored with respect to any future Sale Determination by New West during the term of the First Right of Offer, and New West shall

be required to comply with the provisions of Sections 4 through 6 of this Agreement in the event New West makes such a future Sale Determination.

7. Miscellaneous Provisions.

7.1 Binding Effect. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the respective successors and permitted assigns of the parties.

7.2 Assignment. Neither this Agreement nor any of the rights, interests, or obligations under this Agreement may be assigned by any party without the prior written consent of the other party.

7.3 Commissions. New West and PacificSource each confirm that, as of the date of this Agreement, neither has dealt with any broker, finder, or other third party with respect to the subject matter of this Agreement.

7.4 Notices. All notices and other communications under this Agreement must be in writing and will be deemed to have been given if delivered personally, sent by facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties at the following addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties):

To the Buyer:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: Kenneth P. Provencher, President/CEO
Facsimile No.: (541) 684-5575

With a copy to:

PacificSource Health Plans
110 International Way
Springfield, OR 97477
Attn: General Counsel
Facsimile No.: (541) 684-5475

To the Seller:

New West Health Services
130 Nellie Avenue
Helena, MT 59601
Attn: David Kibbe, President/CEO
Facsimile No.: (406) 457-2299

With a copy to:

Joseph T. Aoun
Nuyen, Tomtishen and Aoun, P.C.
2001 Commonwealth Blvd., Suite 300
Ann Arbor, MI 48105
Facsimile No.: (734) 372-4101

All notices or other communication will be deemed to be given (a) on the date of personal delivery, (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail, or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

7.5 Headings. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

7.6 Arbitration; Waiver of Jury Trial.

(a) The parties will work together in good faith to resolve any and all disputes between them (hereinafter referred to as "Disputes") including but not limited to all questions of arbitrability, the

existence, validity, or scope of the Agreement. If the parties are unable to resolve any such Dispute within 60 days following the date one party sent written notice of the Dispute to the other party, the Dispute shall thereafter be submitted to binding arbitration before a panel of three arbitrators in accordance with the Commercial Dispute Procedures of the American Arbitration Association, as they may be amended from time to time; provided, however, the parties shall not submit to arbitration any Disputes where a party seeks specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief. Any arbitration proceeding under this Agreement shall be conducted in Lewis and Clark County, Montana. The arbitrator(s) may construe or interpret but shall not vary or ignore the terms of this Agreement and shall be bound by controlling law. The arbitrator(s) shall have no authority to award punitive, exemplary, indirect or special damages. The decision of the arbitrator(s) on the points in dispute will be binding, and judgment on the award may be entered in any court having jurisdiction thereof, consistent with Section 7.6(b) below. In the event that any portion of this Section 7.6 or any part of this Agreement is deemed to be unlawful, invalid or unenforceable, such unlawfulness, invalidity or unenforceability shall not serve to invalidate any other part of this Section or Agreement. In the event any court determines that this arbitration procedure is not binding or otherwise allows litigation involving a Dispute to proceed, the parties hereby waive any and all right to trial by jury in, or with respect to, such litigation. Such litigation would instead proceed with the judge as the finder of fact. This Section 7.6 governs any dispute between the parties arising after execution of this Agreement, and shall survive any termination of this Agreement.

(b) Any legal action or proceeding seeking specific performance of this Agreement or temporary, preliminary or permanent injunctive relief or any other form of equitable relief, and any legal action or proceeding seeking enforcement of any arbitration award in respect to this Agreement, may be brought in the courts of the State of Montana or of the United States of America for the District of Montana, and, by execution and delivery of this Agreement, the parties hereby accept for themselves and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts and appellate courts. The parties waive the right to trial by jury with respect to any claims hereby. The parties further irrevocably consent to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to the parties at its addresses referred to in Section 7.4. The parties hereby irrevocably waive any objection which they may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement brought in the courts referred to and hereby further irrevocably waive and agree, to the extent permitted by applicable law, not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any party hereto to serve process in any other manner permitted by law or to commence legal proceedings or otherwise proceed in any other jurisdiction.

7.7 Entire Agreement; Modification. This Agreement, together with the Asset Purchase Agreement executed by the parties with respect to the sale of New West's commercial business (including the documents, instruments and agreements referenced therein), constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by the parties.

7.8 *Severability.* If any provision of this Agreement is deemed to be invalid or unenforceable in any respect for any reason, the validity and enforceability of such provision in any other respect and of the remaining provisions of this Agreement will not be impaired in any way.

7.9 *Waiver.* A failure by a party to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.

7.10 *Time of Essence.* Time is of the essence for each and every provision of this Agreement.

7.11 *Governing Law.* This Agreement will be governed by and construed in accordance with the laws of the state of Montana, without regard to conflict-of-laws principles that would require the application of any other law.

7.12 *Counterparts.* This Agreement may be executed in counterparts, each of which will be considered an original and all of which together will constitute one and the same agreement.

7.13 *Facsimile Signatures.* Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, will be the same as delivery of an original. At the request of any party, the parties will confirm facsimile transmitted signatures by signing an original document.

7.14 *Authority to Execute.* Each person executing this Agreement on behalf of a party warrants his or her authority to do so.

The parties enter into this Agreement as of the date first written above.

New West Health Services

By: _____
Nicholas Wolter, M.D.
Chairman of the Board

PacificSource Health Plans

By: _____
Kenneth P. Provencher
President and Chief Executive Officer